

10. COMPETITION LAW

Kala ANANDARAJAH

LLB (Hons) (National University of Singapore),

MBA (Banking and Finance)

(Nanyang Technological University of Singapore);

Advocate and Solicitor (Singapore);

Partner, Head, Competition & Antitrust and Trade Practice,

Rajah & Tann Singapore LLP.

I. Overview

10.1 2024 saw a change in the Chief Executive of the Competition and Consumer Commission of Singapore (“CCCS”), with Alvin Koh taking over with effect from 1 April 2024. With his appointment, CCCS continues to actively enforce the Competition Act 2004¹ (“the Act”) and the Consumer Protection (Fair Trading) Act 2003² (“CPFTA”). As a reflection of his focus, Alvin Koh noted on his new appointment that:³

Tackling anti-competitive conduct and unfair practices remain our primary objective and we will take on relevant and impactful cases to maintain our enforcement presence. In the medium term, CCCS will focus on digital markets, price transparency and supporting Singapore’s green transition.

10.2 In furtherance of his comments, CCCS reinforced its robust enforcement efforts in 2024 dealing with anti-competitive agreements. It issued two decisions on bid rigging, including its first enforcement action against an individual as an undertaking, underscoring its commitment to deter cartel conduct and to promote fair competition. In the aviation sector, CCCS received two notifications for decisions concerning proposed commercial co-operation agreements between airline operators, as well as an application for the release of capacity commitments following a review of prevailing market conditions.

10.3 2024 also saw several high-profile merger control decisions, including in the aviation and transportation services sectors. There were six notifications, of which five were cleared. The mergers cleared included CCCS granting conditional approval to transactions related to Singapore Airlines, Air India and Vistara Airlines, and clearing the proposed

1 2020 Rev Ed.

2 2020 Rev Ed.

3 Competition and Consumer Commission of Singapore, “New Chief Executive Appointed to the Competition and Consumer Commission of Singapore”, media release (28 March 2024).

acquisition of Nippon Cargo Airlines Co Ltd by ANA Holdings Inc. It bears note that CCCS was quick to intervene in transactions that raised potential competition concerns. A case in point is CCCS's issuance of a provisional decision raising competition concerns with regards to the proposed acquisition of Trans-cab Holdings Ltd by Grab Holdings Ltd, resulting in the withdrawal of the acquisition. Additionally, CCCS issued interim measures directions ("IMDs") in a matter where it suspected a possible acquisition of Delivery Hero (Singapore) Pte Ltd by Grab Holdings Inc, which, amongst various factors, eventually led to the transaction being eventually abandoned.

10.4 As part of its stated efforts at clamping down on unfair trade practices, CCCS issued five warnings to businesses in 2024. These consumer protection investigations included false advertising in the water filtration systems industry, fake online reviews on a home furnishing website, and misrepresentations of price benefits on the delivery service platform Foodpanda. Moreover, one beauty service provider was found guilty of contempt of court after failing to comply with a court-ordered injunction on unfair practices. This was a landmark case for consumer protection law, showing that the courts will take to task errant businesses and business directors with hefty fines and imprisonment terms.

II. **Anti-competitive agreements, decisions of associations of undertakings and concerted practices (section 34 of the Act)**

10.5 Section 34 of the Act prohibits agreements between undertakings, decisions by associations of undertakings, or concerted practices that have the object or effect of preventing, restricting or distorting competition within Singapore, unless exempted. In particular, agreements involving price fixing, bid rigging, market allocation or output limitations are considered as "object" restrictions which always result in an appreciable adverse effect on competition and hence *per se* violations.

10.6 Following a finding that an agreement and/or concerted practice has infringed s 34 of the Act, CCCS can impose on an infringing party (which includes an individual) a financial penalty not exceeding 10% of the turnover of the business of the undertaking in Singapore for each year of infringement, up to a maximum of three years. In determining the financial penalties to be imposed, CCCS will calculate a base penalty and consider the seriousness of the infringement, and the party's turnover of the business in Singapore. Thereafter, a multiplier is added for the duration of the infringement and then the figure will be adjusted to

take into account factors such as deterrence, aggravating and mitigating considerations and leniency discounts.

10.7 Matters listed in the Third Schedule to the Act (“Third Schedule”) are exempt from the application of s 34. One such exemption is the Net Economic Benefit exclusion which, subject to specific conditions, allows agreements that improve production, distribution, or promote technical or economic progress. Where parties, typically competitors, seek to enter into agreements which run the risk of being anti-competitive, the Act allows for such parties to voluntarily notify CCCS for guidance as to whether an agreement likely infringes s 34, or for a decision as to whether an agreement has infringed s 34. The key difference between an application for guidance and an application for decision is that the former is treated as confidential whilst the latter is made public. The benefit of notifying CCCS of a co-operation where there is genuine uncertainty as to whether it is potentially competitive is that the arrangement benefits from immunity from financial penalties for infringement (if any) during the period beginning on the date on which the notification was lodged and ending on such date as specified by CCCS if a likely infringement is to be found.

A. *Proposed commercial co-operation between Singapore Airlines Ltd and Tata SIA Airlines Ltd*⁴

10.8 On 5 March 2024, CCCS granted conditional approval for three transactions (“Transactions”) after accepting commitments from Air India Ltd (“Air India”), Singapore Airlines Ltd (“SIA”) and Tata SIA Airlines Ltd (which operates under the brand name “Vistara”).

10.9 The Transactions are as follows:

(a) The acquisition by Talace Pte Ltd (“Talace”) of all shares and voting rights of Air India (“First Transaction”). This First Transaction was notified by Talace to CCCS on 14 December 2021, and CCCS completed its Phase 1 review and raised competition concerns with Talace (see further case discussion under “Mergers” at para 10.37 below).

(b) The subsequent agreement entered into between Air India, Talace, Tata Sons Pte Ltd (“TSPL”), Vistara and SIA on 29 November 2022 (“Implementation Agreement”), for which CCCS had received a joint application for decision from SIA and Vistara on 30 November 2020. The Implementation Agreement

4 CCCS 400-110-2020-001 (5 March 2024).

would result in: (i) the merger of Talace and Vistara into Air India, with Air India as the surviving entity (“Integrated Entity”); and (ii) SIA acquiring 25.1% of the enlarged equity capital of Air India (“Second Transaction”).

(c) The proposed commercial co-operation between the Integrated Entity and SIA contemplated by the agreement dated 29 November 2022 between TSPL, SIA and Air India, to be given effect to through a new framework agreement, which envisions the Integrated Entity and SIA co-operating in the provision of scheduled air passenger transport services between Singapore and India (“Revised Commercial Co-operation”).

10.10 After assessing the information submitted by the parties and third-party feedback, CCCS identified some competition concerns arising from the Transactions. In particular, the parties possess the majority of the market shares for the carriers offering direct flights on four routes of concern: Singapore-New Delhi, Singapore-Mumbai, Singapore-Chennai, and Singapore-Tiruchirapalli (and *vice versa* for all routes). CCCS also found that the price and capacity co-ordination between the parties arising from the confluence of the Transactions would significantly restrict competition on the affected routes.

10.11 In response to CCCS’s concerns, the parties proposed commitments related to maintaining capacity levels on specific routes as well as schedules. After conducting a market testing exercise, CCCS concluded that the proposed commitments adequately address competition concerns and granted approval to the Transactions on 5 March 2024, subject to adherence to the proposed commitments.

B. *Proposed commercial cooperation between Singapore Airlines Ltd and PT Garuda Indonesia (Persero) Tbk*⁵

10.12 On 5 July 2024, CCCS granted conditional approval for the proposed commercial co-operation (“Proposed Co-operation”) between SIA and Garuda Indonesia (Persero) Tbk. This approval was contingent on the parties providing commitments to address competition concerns arising from the co-operation in scheduled air passenger transport services between Singapore and Indonesia. The parties had applied for CCCS’s decision on whether the Proposed Co-operation would infringe s 34 of the Act.

5 CCCS 400-110-2024-001 (5 July 2024).

10.13 CCCS's assessment concluded that the Proposed Co-operation was likely to result in a demonstrable and appreciable adverse effect on competition, particularly on the Singapore-Jakarta ("SIN-CGK") and Singapore-Surabaya ("SIN-SUB") routes ("Routes of Concern"). While there were claimed benefits arising from the Proposed Co-operation, CCCS's overall assessment was that the claimed benefits on their own were insufficient to outweigh the competition concerns.

10.14 The assessment highlighted the high combined market shares of SIA Group and Garuda Group, which consistently ranged between 50% and 60% on the SIN-CGK route over an extended period from October 2022 to January 2024. Individually, SIA Group and Garuda Group each held significant market shares of 20% to 30%. The SIN-CGK route was identified as particularly concerning since SIA and Garuda were found to be each other's closest competitors, with comparable offerings in terms of capacity, frequency, product features and pricing. Stakeholder feedback confirmed that the two airlines were effectively the most direct rivals on this route. While the SIN-SUB route was less competitive, similar concerns arose due to the significant market shares held by SIA Group and Garuda Group. Only the Singapore-Denpasar route satisfied the Net Economic Benefit exclusion, where the combined market share of SIA and Garuda was below 10%.

10.15 In response to CCCS's concerns, the parties voluntarily provided a set of proposed commitments pertaining to scheduled international air passenger transport services on the affected routes, undertaking to (among others): (a) maintain seat capacity on an aggregated basis on the routes at stipulated levels; and (b) appoint an independent auditor to monitor compliance with the above, and render a report to CCCS on an annual basis.

10.16 CCCS considered the proposed commitments and determined that they sufficiently mitigated the identified competition concerns. CCCS therefore approved the Proposed Co-operation, following an evaluation of feedback provided in a market testing exercise, subject to the implementation and ongoing compliance with the commitments. This decision reflects CCCS's measured approach to balancing potential consumer benefits from the co-operation against the risks of reduced competition in key air transport markets.

C. *Rei Securite Pte Ltd and its ex-director penalised for bid rigging*⁶

10.17 As noted above, CCCS considers bid rigging as conduct which will always have an appreciable adverse effect on competition and a restriction of competition by object which infringes s 34 of the Act. This type of co-ordination between undertakings are regarded by their very nature as being harmful to the proper functioning of normal competition.

10.18 On 5 September 2024, CCCS issued an infringement decision against Rei Securite Pte Ltd (“Rei”) and its former director (“Soh”) for engaging in bid-rigging conduct when tendering to supply licences for vulnerability management software and related support services. This is the first enforcement action against companies specifically formed to facilitate bid-rigging conduct, as well as the first infringement decision issued against a former director in his individual capacity. Note that the director was deemed an undertaking on his own and hence caught by the Act.

10.19 Two shell companies were established exclusively to submit cover bids for the affected invitations to quote (“ITQs”). Soh was responsible for preparing and submitting bids on behalf of both the shell companies and Rei. He ensured that Rei’s bid was consistently the lowest, allowing Rei to win the tender. In exchange for orchestrating this bid-rigging arrangement, Soh received \$34,000 as “service fees”.

10.20 CCCS uncovered this arrangement through document metadata and tracked changes, which revealed that Soh was the last person to save and modify the bids for Rei and the two shell companies.

10.21 CCCS imposed a financial penalty of \$6,237 on Rei and \$2,550 on Soh. With reference to this case, CCCS reiterated that it adopts a zero-tolerance approach towards bid-rigging practices and urged businesses and government agencies to report any potential bid rigging and irregularities in their tendering processes to CCCS.

D. *Emirates and Qantas Airways released from capacity commitments*⁷

10.22 On 4 October 2024, CCCS released Emirates (“EK”) and Qantas Airways (“QF”) from their capacity commitments on the Singapore-Melbourne (and *vice versa*) (“SIN-MEL vv”) route. Additionally, Qantas

6 CCCS 500-100-2023-002 (5 September 2024).

7 CCS 400/006/12 (4 October 2024).

Airways was freed from its capacity commitments on the Singapore-Brisbane (and *vice versa*) (“SIN-BNE vv”) route.

10.23 CCCS had previously issued a conditional clearance decision on 28 March 2013 (“2013 Decision”)⁸ for the alliance between QF and EK (“Alliance”). This clearance was granted after the parties voluntarily undertook to maintain minimum weekly seat capacities for passengers on the SIN-BNE vv and SIN-MEL vv routes and to increase their capacities if certain conditions were triggered (“Undertaking”). Under the Alliance, the parties co-ordinated various aspects of their flight services, including pricing, scheduling, marketing, planning, operating capacity and airport facilities across their global networks, particularly for routes from Australia to Europe via Singapore and Dubai.

10.24 The 2013 Decision recognised the proposed conduct as pro-competitive and efficiency-enhancing. CCCS highlighted that the Alliance would deliver benefits to Singapore, such as more competitive fares, improved quality of products and services for Singaporean consumers, and a strengthened aviation hub in the Southeast Asia region.

10.25 In its assessment, CCCS found that EK’s withdrawal from both the SIN-MEL vv and SIN-BNE vv routes has effectively eliminated any operational overlap between the parties on routes between Singapore and Australia. The parties’ market position has also weakened significantly since 2013. Their combined market share on both the SIN-MEL vv and SIN-BNE vv routes has decreased, and they are no longer the market leaders, especially given Singapore Airlines’ significant expansion of operations on both routes and the increased competition due to the recent entry of Turkish Airlines on the SIN-MEL vv route.

10.26 Based on these considerations, CCCS concluded that the original rationale for the Undertaking no longer applied and released the parties from their capacity commitments on the SIN-MEL vv and SIN-BNE vv routes.

10.27 Businesses can engage with CCCS when justifications for prior commitments to address competition concerns become obsolete due to changing market conditions.

8 Competition Commission of Singapore, “CCS Clears the Emirates-Qantas Alliance with Undertaking by Parties on Seat Capacity”, media release (28 March 2013).

E. Flex Connect Pte Ltd and Tarkus Interiors Pte Ltd penalised for bid rigging

10.28 CCCS is empowered under the Act to undertake unannounced inspections (*ie*, dawn raids) at the premises of any business suspected of anti-competitive conduct.

10.29 This resulted in CCCS issuing an Infringement Decision on 20 December 2024 against Flex Connect Pte Ltd (“FL”) and Tarkus Interiors Pte Ltd (“Tarkus”) for infringing s 34 of the Act. After extensive investigations by CCCS, the parties were found to have engaged in bid-rigging conduct between August 2016 to August 2021 relating to several tenders for interior fit-out construction services in non-residential properties across Singapore.

10.30 CCCS’s investigations began in 2020, through a dawn raid at the parties’ business premises, during which digital evidence was seized. This revealed numerous instances of bid-rigging conduct over five years, affecting 12 separate tenders with a total value of approximately \$34,110,000. The bid-rigging conduct involved one of the parties providing bid pricing details to the other party, who would then submit a bid at a higher price to give the designated winner a better prospect of winning the tender.

10.31 CCCS held that bid-rigging conduct subverts the tendering process, which is designed to promote fair competition via independent bids. As a result of bid rigging, customers suffered because they could not obtain competitive prices offering the best value. Consequently, CCCS imposed a financial penalty of \$4,885,263 on FL and \$5,113,918 on Tarkus, taking into consideration various factors including each business’s relevant turnover, the nature and severity of the infringement, and aggravating and mitigating factors. Notably, during the initial investigations, FL applied for and was granted leniency, resulting in a reduction of its financial penalty through a leniency discount. On the other hand, Tarkus did not qualify for any mitigating discounts as its compliance measures were implemented only after the CCCS investigation had commenced. CCCS emphasised that such measures should have been in place prior to the investigation.

10.32 Under CCCS’s leniency programme, parties are eligible for leniency when they voluntarily provide CCCS with information on their cartel activities. Depending on the stage at which the party came forward for leniency, the evidence already in CCCS’s possession when the party applied for leniency, and the quality of information provided, parties can be granted total immunity or a reduction of up to 100% or 50% in the level of financial penalties.

III. Mergers that (may) result in substantial lessening of competition (section 54 of the Act)

10.33 Section 54 of the Act prohibits mergers that have resulted, or may result in, a substantial lessening of competition within any market for goods or services in Singapore. The determination of whether a merger will substantially lessen competition involves a comparative analysis between the anticipated state of competition in the market if the merger proceeds and the anticipated state of competition if the merger situation does not proceed, known as the counterfactual.

10.34 Even if a merger may substantially lessen competition, the presence of efficiency gains – among other factors – may offset these anti-competitive effects such that there is no s 54 infringement. In such cases, CCCS can proceed to clear the merger with or without commitments. CCCS may clear the merger following a Phase 1 review or following a more in-depth Phase 2 review.

10.35 Singapore adopts a voluntary merger notification regime. As such, merger parties are not strictly required to submit a merger notification to CCCS. Yet, the position is that where thresholds are crossed, there is a presumption of substantial lessening of competition and a careful analysis is required. Generally, CCCS is unlikely to intervene in a merger situation unless the merged entity: (a) will have or has a market share of at least 40%; or (b) the merger entity will have or has a market share of between 20% and 40% and the post-merger combined market share of the three largest firms (“CR3”) is at least 70% (“Indicative Thresholds”). Hence, it would be prudent to notify CCCS prior to implementing a merger, especially if the Indicative Thresholds are crossed, to avoid the consequences that may come with an unfavourable finding by CCCS. Merger parties who are concerned with the confidentiality of a merger (which has not been announced) can opt for confidential advice from CCCS.

10.36 In the absence of a merger notification, CCCS can nonetheless conduct its own investigation and take appropriate steps to direct parties to remedy the substantial lessening of competition or pay financial penalties in the event s 54 of the Act is infringed. CCCS has the power to impose penalties and also to unwind a completed merger, which will be a costly and time-consuming process for the parties involved. As such, merger parties should note that non-notification of mergers comes with various risks.

A. *Proposed acquisition of Air India Ltd by Talace Pte Ltd*

10.37 The proposed acquisition of Air India by Talace, along with the related transactions (discussed at para 10.9 above), raised concerns under s 34 of the Act (as discussed at para 10.10 above) and possible substantial lessening of competition as prohibited under s 54 of the Act. Specifically, CCCS identified concerns about price and capacity co-ordination on four key routes between Singapore and India due to the parties' combined market position. To allay CCCS's competition concerns, the parties proposed commitments, including maintaining capacity levels on all four routes and appointing an independent auditor to monitor compliance alongside submitting written reports in relation to these commitments. After conducting a market testing exercise, CCCS concluded that the proposed commitments adequately address competition concerns, and granted approval to the transactions subject to adherence to these commitments.

B. *Proposed acquisition of Nippon Cargo Airlines Co Ltd by ANA Holdings Inc*⁹

10.38 On 24 May 2024, CCCS cleared the proposed acquisition by ANA Holdings Inc ("ANA") of 100% of the issued share capital in Nippon Cargo Airlines Co Ltd ("NCA"). ANA is the holding company for the ANA Group headquartered in Tokyo and provides international air passenger transport and air cargo transport to and from Singapore. Meanwhile, NCA is a wholly-owned subsidiary of Nippon Yusen Kabushiki Kaisha and is Japan's sole cargo-only airline company. NCA provides air cargo transport using freighters on routes to and from Singapore.

10.39 On 7 December 2023, CCCS commenced its review of an application from the parties for a decision on whether the proposed transaction would infringe s 54 of the Act. The relevant markets for the review were the provision of direct and indirect air cargo transport services: (a) from Singapore to Tokyo; and (b) from Tokyo to Singapore. While reviewing the proposed transaction, CCCS conducted a public consultation and sought feedback from various stakeholders, including competitors and customers of ANA and NCA.

10.40 CCCS concluded that the proposed acquisition would be unlikely to lead to a substantial lessening of competition in the relevant markets. This was because ANA and NCA were not each other's closest competitors

9 Competition and Consumer Commission of Singapore, "CCCS Clears Proposed Acquisition by ANA Holdings Inc of Nippon Cargo Airlines Co Ltd", media release (24 May 2024).

according to third-party feedback. Moreover, although ANA and NCA were the only airlines operating freighters directly between Singapore and Tokyo, there were viable alternative airlines operating freighters on indirect routings between Singapore and Tokyo that customers could switch to easily, in the event of any price increase or reduction of quality or capacity by the merged entity. The barriers to entry and expansion in the relevant markets were also not high as competing airlines could easily add freighter aircraft operations when competitive opportunities arose. Lastly, co-ordination between competitors is difficult as the prices charged to customers are not transparent due to specific requirements that need a direct negotiation process between customers and suppliers.

C. *Proposed acquisition of Trans-cab Holdings Ltd by Grab Rentals Pte Ltd*¹⁰

10.41 The proposed acquisition of Trans-cab Holdings Ltd (“Trans-cab”) by Grab Holdings Ltd (“Grab”) through GrabRentals Pte Ltd (“GrabRentals”) was withdrawn following a provisional decision by CCCS.

10.42 On 11 July 2024, CCCS issued a provisional decision that the proposed acquisition was likely to result in a substantial lessening of competition in the market for the supply of ride-hail platform services to drivers (“Ride-Hail Platform Market”) and would therefore infringe s 54 of the Act.

10.43 It was found that the proposed acquisition would likely entrench Grab’s already dominant position in the Ride-Hail Platform Market, to the detriment of drivers and passengers. Furthermore, CCCS noted that Grab’s plans to acquire Trans-cab, which is one of the largest fleets (taxi or private-hire car) not owned by or in partnership with any ride-hail platform in Singapore, to increase the availability of drivers on its ride-hail platform came at a time when rival ride-hail platforms were facing driver supply shortages.

10.44 CCCS determined that the proposed acquisition would likely: (a) affect the ability of rival ride-hail platforms to fulfil trip requests and, over time, make them less attractive to passengers and drivers due to indirect network effects; and (b) affect the ability of ride-hail platforms to extend the scale of ride-hail platform services offered. This would weaken competitive constraints exerted by rival ride-hail platforms on Grab.

10 Competition and Consumer Commission of Singapore, “CCCS Ends Assessment of Grab Holdings Limited’s Proposed Acquisition of Trans-cab Holdings Ltd After Parties Withdraw Acquisition Plans”, media release (25 July 2024).

If competition constraints on Grab from rival ride-hail platforms were weakened, drivers and passengers could face higher prices (in the form of higher commissions and fees net of incentives) and fewer choices for ride-hail platform services.

10.45 Following this provisional decision, CCCS invited Trans-cab and Grab to submit their representations before making a final decision on whether to clear or block the acquisition. In response, and on 22 July 2024, the parties notified CCCS of their decision to terminate the proposed acquisition. This demonstrates CCCS's careful scrutiny of mergers and the importance of engaging CCCS at an early stage of acquisition plans to assess whether these plans are likely to raise competition concerns.

D. Proposed acquisition of Delivery Hero's business by Grab in Singapore¹¹

10.46 On 1 April 2024, CCCS announced that the IMDs issued on 2 February 2024 to Delivery Hero and Grab had ceased to be in effect from 23 February 2024. The IMDs related to Grab's possible acquisition of all or part of Delivery Hero's business in Southeast Asia, including Singapore.

10.47 The IMDs aimed to ensure that the market remained open and contestable until the completion of CCCS's investigation.

10.48 Under the IMDs, CCCS directed the parties to not, amongst other things, take or omit to take any action to achieve and which causes or contributes to any of the following in the online food ordering and delivery ("OFOD") services in Singapore:

- (a) the integration of the parties' OFOD services businesses in Singapore;
- (b) the effecting of any agreement between the parties (or their related entities) that would materially impair the ability or incentive of either party to compete independently in the OFOD services in Singapore; or
- (c) materially impact the viability and saleability of Delivery Hero's Foodpanda businesses in Singapore such as to prejudice CCCS's ability to direct a divestment subsequently if necessary.

11 Competition and Consumer Commission of Singapore, "CCCS had issued Interim Measures Directions during the Possible Acquisition by Grab of Delivery Hero's business in Singapore", media release (1 April 2024).

10.49 Specifically, CCCS issued, amongst other things, the following directions to the parties:

- (a) The parties shall not share confidential business information with each other, except where necessary for regulatory compliance or to advance any negotiations or due diligence in relation to a Singapore merger.
- (b) The parties shall deal with each other at arm's length, without unduly favouring each other against other competitors in any Singapore market.
- (c) Grab shall not make any payment to Delivery Hero, and Delivery Hero shall not receive any payment from Grab, in cash, stock or otherwise, in connection with a Singapore merger.
- (d) Delivery Hero shall not take any deliberate or active steps to induce delivery riders, F&B merchants or customers of its Foodpanda business to migrate to Grab's platform in Singapore.
- (e) Parties shall not divest control of their respective OFOD businesses in Singapore to each other, and shall maintain their businesses and brand separate and independent from each other in Singapore.

10.50 The actions by CCCS reflect the steps that it is willing to take if it suspects that there could be a substantial lessening of competition, despite Singapore adopting a voluntary regime for merger notifications.

E. *Proposed acquisition of shares in HG Metal Manufacturing by Green Steel Pte Ltd*¹²

10.51 On 12 August 2024, CCCS cleared the proposed share acquisition of HG Metal Manufacturing Ltd ("HG Metal") by Green Steel Pte Ltd ("Estee") ("Proposed Transaction"). CCCS assessed that the Proposed Transaction would not infringe the s 54 prohibition.

10.52 Both parties are involved in the business of supplying reinforcing steel and structural steel products in Singapore. CCCS determined that the relevant markets comprised the supply of reinforcing steel products as a whole; and in relation to each of the specific overlapping types of reinforcing steel products in Singapore; and the supply of structural steel products in Singapore ("Relevant Markets").

10.53 CCCS cleared the proposed acquisition as it was unlikely to substantially lessen competition. The parties were not each other's closest

12 Competition and Consumer Commission of Singapore, "CCCS Clears Proposed Acquisition by Green Steel Pte Ltd of shares in HG Metal Manufacturing Limited", media release (12 August 2024).

competitors in terms of size and would continue to face competition from several other competitors in the Relevant Markets.

10.54 Further, CCCS was of the view that the barriers to entry and expansion in the Relevant Markets appeared to be low and were not insurmountable, judging by the market's excess capacity for supplying steel products.

10.55 Finally, CCCS considered that customers had some degree of countervailing buyer power and were generally able to switch suppliers, engage multiple suppliers, and negotiate with suppliers on prices.

F. *Proposed acquisition of shares of Dyna-Mac Holdings Ltd by Hanwha Ocean SG Holdings Pte Ltd*¹³

10.56 On 15 November 2024, CCCS cleared the proposed acquisition of Dyna-Mac Holdings Ltd ("Dyna-Mac") by Hanwha Ocean SG Holdings Pte Ltd ("Hanwha"). CCCS assessed that the proposed transaction would not infringe s 54 of the Act, which prohibits mergers that may substantially lessen competition within any market.

10.57 Hanwha is part of the Hanwha Group, a South Korean conglomerate that operates in the shipbuilding and offshore industry, while Dyna-Mac is a topside module manufacturing company in the energy and marine sectors. The parties do not have any horizontal relationships between them as they do not overlap in the supply of any goods or services in Singapore. However, they have a limited vertical relationship between them. The relevant upstream market is the worldwide market for fabrication of offshore topside modules, which Dyna-Mac engages in, while the relevant downstream market is the worldwide market for the construction of offshore plants, which Hanwha will engage in. Hence, the concern was that Hanwha could potentially restrict supply of Dyna-Mac's topside modules, which Hanwha uses in its construction of offshore plants, to rival downstream suppliers of offshore plants.

10.58 After reviewing the proposed acquisition, CCCS concluded that the proposed transaction was unlikely to lead to a substantial lessening of competition in the market for the construction of offshore plants because:

- (a) Dyna-Mac's market share in the global supply of topside modules was unlikely to be high;

13 Competition and Consumer Commission of Singapore, "CCCS Clears Proposed Acquisition of Dyna-Mac Holdings Ltd by Hanwha Ocean SG Holdings Pte Ltd", media release (15 November 2024).

- (b) customers would continue to have sufficient choice of suppliers for topside modules on a global basis; and
- (c) Dyna-Mac's topside modules represented only a small portion of those used in the global supply of offshore plants.

G. *Proposed acquisition of PropertyGuru Group Ltd by Hedychium*¹⁴

10.59 On 6 December 2024, CCCS announced that it had cleared the proposed acquisition of PropertyGuru Group Ltd (“PropertyGuru”) by Hedychium Group Ltd and Hedychium Ltd (collectively, “Hedychium”). CCCS assessed that the proposed transaction would not infringe s 54 of the Act which prohibits mergers that may substantially lessen competition within any market. Hedychium is indirectly wholly owned by a fund advised by entities affiliated with a global investment organisation focused on active ownership strategies. PropertyGuru is a property technology platform company based in Southeast Asia, which primarily provides an online property marketplace service and digital sales and marketing services.

10.60 While reviewing the proposed acquisition, CCCS conducted a public consultation from 4 November 2024 to 18 November 2024 and sought feedback from various stakeholders, including competitors and customers of PropertyGuru.

10.61 CCCS concluded that the proposed transaction was unlikely to substantially lessen competition in Singapore’s digital real estate advertising services market for the following reasons:

- (a) There was no horizontal overlap between the parties in the supply of any goods or services in Singapore.
- (b) There were no vertical integration concerns as there were no vertical relationships between the parties that could affect competition.
- (c) There were no conglomerate concerns as the parties did not supply complementary goods and services in Singapore.

14 Competition and Consumer Commission of Singapore, “CCCS Clears Proposed Acquisition of PropertyGuru Group Limited by Hedychium”, media release (6 December 2024).

H. *Proposed acquisition of ZT Group Int'l Inc by Advanced Micro Devices Inc*¹⁵

10.62 On 6 January 2025, CCCS cleared the proposed acquisition of ZT Group Int'l Inc ("ZT") by Advanced Micro Devices Inc ("AMD") ("Proposed Transaction"), which was notified in 2024. CCCS assessed that the Proposed Transaction would not infringe s 54 of the Act, which prohibits mergers that may substantially lessen competition within any market in Singapore.

10.63 Both AMD and ZT engage in the data centre business. AMD supplies semiconductor devices globally for use in data centres, including central processing units ("CPUs"), discrete graphics processing units ("GPUs"), field programmable gate arrays ("FPGAs") and Smart Network Interface Cards ("SmartNICs"). Its Singapore facility functions as a product development centre conducting research and development activities for pre- and post-silicon development. AMD's products are offered globally, including to customers in Singapore.

10.64 ZT is an original design manufacturer of server and storage solutions for data centres. It has design, engineering and manufacturing capabilities, principally located in the US. Its data centre business comprises server design and engineering, server manufacturing and related services (including test, integration and support services). ZT helps its customers, which are primarily large-scale data centres (hyperscalers), build customised server solutions. ZT provides server integration activities in Singapore. ZT offers its services globally, including to customers in Singapore.

10.65 While reviewing the Proposed Transaction, CCCS conducted a public consultation and sought feedback from various stakeholders, including competitors and customers of the parties.

10.66 CCCS concluded that the Proposed Transaction is unlikely to lead to a substantial lessening of competition in the supply of semiconductor products and the supply of data centre servers as AMD and ZT are unlikely to possess significant market power. In this regard, AMD does not have high market shares in the global supply of server CPUs, discrete GPUs, data centre FPGAs and data centre SmartNICs for data centre servers, while ZT does not have high market shares in the global supply of data centre servers. The merged entity is unlikely to be

15 Competition and Consumer Commission of Singapore, "CCCS Clears Proposed Acquisition of ZT Group Int'l Inc by Advanced Micro Devices Inc", media release (6 January 2025).

able to foreclose competition by leveraging market power in one market via a tying or bundling strategy to profitably increase sales in another market.

IV. Consumer protection

10.67 The CPFTA protects consumers in Singapore against unfair trade practices and gives them rights in respect of goods and services that do not conform to contract. Section 4 of the CPFTA defines unfair practices to include: (a) doing or saying anything, or omitting to do or say anything, which may reasonably result in a consumer being deceived or misled; (b) making a false claim; or (c) taking advantage of a consumer if the supplier knows, or ought reasonably to know that the consumer is vulnerable. The Second Schedule also sets out a non-exhaustive list of unfair practices, such as representing that a price benefit exists where this is untrue, or exerting undue pressure on a consumer to enter into a transaction involving goods or services.

10.68 CCCS is empowered by Pt 3A of the CPFTA to conduct investigations where there is reasonable suspicion that a business has engaged, or is likely to engage, in unfair practices. Refusal to provide information, destroying or falsifying documents, and providing false or misleading information to an investigation officer are all offences that may result in fines, imprisonment, or both.

10.69 If a business is found to have engaged in unfair practices, CCCS may apply for court-issued injunction orders against businesses and enforce compliance in accordance with these orders. Although CCCS does not have the power to impose financial penalties on errant businesses, parties who continue to ignore the injunction orders may be liable for contempt of court, which is punishable with fines and imprisonment terms.

10.70 Investigations carried out in 2024 were focused on digital advertising, indicating that this will be an area of enforcement priority for CCCS as the e-commerce boom continues. It is also worth noting that CCCS has recently closed its call for consultation on a market study on digital advertising services, pointing towards digital advertising as a significant enforcement trend.

A. *Unfair practices in water purification systems industry*

10.71 As part of ongoing market monitoring of the water filtration system industry, CCCS has continued to review the marketing practices of various suppliers in this sector. The attention paid to this industry comes

in the light of the 2023 court injunction order against Triple Lifestyle Marketing Pte Ltd for making false claims regarding the accreditation of its water dispensers, price benefits or advantages for these products which did not exist, and that alkaline and/or filtered water may prevent or improve the condition of various diseases.

10.72 CCCS issued warnings to two suppliers of water purification systems in 2024. The first warning was issued against Purexygen Pte Ltd (“Purexygen”) in March 2024 for engaging in the following unfair practices between September 2021 to November 2023:¹⁶

- (a) making false claims that its water filters were tested by testing bodies in the sales kit used by its salespersons in their sales pitches to consumers;
- (b) making misleading claims on the health benefits of alkaline or filtered water on Purexygen’s website, Facebook and Instagram pages, including claims that alkaline or filtered water can help prevent health conditions such as osteoporosis, acid reflux, blood pressure conditions and diabetes;
- (c) misrepresenting that its water faucet and water dispenser were free for a limited time in listings on Carousell, when the price benefit or advantage did not exist as the water faucet and water dispenser are provided to all Purexygen customers free of charge at all times;
- (d) misrepresenting to consumers in the terms and conditions of service agreements that sums paid for the activation fee and maintenance service package under direct sales contracts were non-refundable, and omitted to inform consumers that they have a right to cancel direct sales contracts under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations 2009 and any sums paid under the cancelled contracts would have to be repaid to the consumers; and
- (e) misleading a consumer by giving false excuses on its persistent delay in providing the consumer’s purchased water filters.

10.73 Following CCCS’s investigations, Purexygen took active steps to change their business practices by removing false claims from their sales kit, misleading promotion listings on Carousell, and misleading

16 Competition and Consumer Commission of Singapore, “Water Filtration System Supplier Purexygen Pte Ltd Undertakes to Cease Unfair Practices”, media release (21 March 2024).

claims on the health benefits of alkaline or filters water from its website, Facebook and Instagram pages. Additionally, the business must provide the outstanding sets of water filters to the consumer.

10.74 Beyond discontinuing the abovementioned unfair practices, Purexygen gave undertakings that it would (a) co-operate fully with the Consumers Association of Singapore (“CASE”) to resolve consumer complaints; (b) put in place an internal compliance policy to ensure that its marketing materials and practices are CPFTA-compliant; as well as (c) implement staff training on the types of conduct that would amount to an unfair practice under the CPFTA and maintain such training records. Purexygen’s directors similarly gave personal undertakings that their business would not engage in further unfair practices.

10.75 The second warning in respect of a water filtration system supplier was against Sterra Tech Pte Ltd (“Sterra”) in August 2024.¹⁷ CCCS opened its investigation after receiving several complaints, including one from the Public Utilities Board (“PUB”), which is Singapore’s National Water Agency.

10.76 CCCS found that Sterra had made false and misleading representations on its website from February 2023 to March 2024 regarding:

- (a) ***False country of manufacture claims.*** Three models of air purifiers sold by Sterra were marketed as made in Singapore when they were in fact made in China.
- (b) ***Misleading “Korean” labelling.*** Two models of Sterra’s water purifiers were marketed as “Korean” when they were neither sourced from nor manufactured in Korea, but were in fact manufactured in China.
- (c) ***False discounts.*** The “usual” (*ie*, pre-discount) prices that Sterra claimed for comparison with its discounted price were not genuine previous prices and, in fact, never offered to any customer.

10.77 CCCS issued a warning to Sterra and its directors, and accepted their undertakings that the company would:

17 Competition and Consumer Commission of Singapore, “Sterra Apologises and Undertakes to Stop False and Misleading Marketing Practices”, media release (30 August 2024).

- (a) stop its unfair trade practices and put in place an internal compliance policy to ensure that its marketing materials comply with fair trading laws;
- (b) put up a public apology in relation to its advertisement on its website and social media channels for 30 days; and
- (c) co-operate with the Advertising Standards Authority of Singapore (“ASAS”) and Singapore public agencies, including PUB, to resolve all complaints by consumers and publish clarifications in relation to any advertisements that are found to be misleading by ASAS or the public agencies.

10.78 Sterra’s directors also gave their own personal undertakings to CCCS that they would not engage in any unfair trade practice, nor facilitate Sterra to do so in future.

10.79 In closing both cases, CCCS maintained that it would take action if the business or its directors breached the undertakings or engaged in any other unfair practices.

B. Online reviews

10.80 Given that consumers take into account online reviews when making purchasing decisions, the posting of a fake review by a business in relation to a consumer transaction is deemed an unfair trade practice as consumers might be deceived or misled into thinking that the review was genuine.

10.81 Fake reviews were the subject of an investigation commenced by CCCS against Loft Home Furnishing Pte Ltd (“Loft Home Furnishing”) in October 2023. CCCS had received complaints from its customers that reviews containing their initials were posted on the business’s website without their knowledge. There were at least seven fake reviews giving glowing recommendations on the quality of the purchased furniture and containing actual photos of the furniture displayed in the customers’ homes.

10.82 CCCS concluded that Loft Home Furnishing and two of its related businesses, Loft Home Furniture and Loft Industries Pte Ltd (collectively, “Loft Home Entities”), were responsible for posting fake five-star reviews between November 2022 and August 2023. Investigations revealed that only they had access to the customers’ information and were in possession of the photos used in the reviews. Loft Home Furnishing also admitted to having engaged in such an unfair trade practice.

10.83 CCCS issued warnings to the Loft Home Entities and their business owners after accepting the business's undertaking to, among other things:

- (a) stop posting fake reviews;
- (b) set up a feedback channel for customers to report any fake reviews on their website or any other website that may be owned or operated by the Loft Home Entities;
- (c) inform and invite previous customers who made purchases between November 2022 and August 2023, and future customers who are asked to leave a review, to report any fake reviews made on the website in respect of their purchases; and
- (d) remove reviews which have been verified by either CCCS or themselves to be fake.

10.84 CCCS advised consumers to exercise caution when relying on reviews to make purchases. Moving forward, CCCS's Chief Executive, Alvin Koh, stated that CCCS will make fabricated online reviews an area of enforcement priority and continue to take action against businesses who engage in such unscrupulous acts.

C. Contempt of court proceedings against Nail Palace (BPP) Pte Ltd, Nail Palace (SM) Pte Ltd and their managing director¹⁸

10.85 The year 2024 was the first time that CCCS instituted contempt proceedings against an errant business and its manager for breaching court orders requiring them to cease unfair trade practices. This case also marked the first instance that CCCS obtained a substantial fine and imprisonment sentence against parties infringing the CPFTA. Contrary to the view that the CPFTA is toothless, this case demonstrates CCCS's commitment to enforcing the law for the benefit of consumers and CCCS's readiness to take errant businesses to task should they fail to comply with court orders under the CPFTA.

10.86 CCCS commenced investigations into Nail Palace (BPP) Pte Ltd and Nail Palace (SM) Pte Ltd ("NP Entities") following consumer complaints made to CASE and obtained the following orders from the District Court: (a) a declaration that the NP Entities had engaged in one or more unfair practices relating to the supply of anti-fungal treatment

18 Competition and Consumer Commission of Singapore, "Nail Palace Entities and their Managing Director Found Guilty of Contempt of Court", media release (10 September 2024).

packages; and (b) injunctions requiring the NP Entities to stop engaging in these unfair practices.

10.87 The District Court further ordered the NP Entities to: (a) publish details of the declarations and injunctions ordered against them in the four major newspapers in Singapore (“Publication Orders”); and (b) for a period of two years, inform customers of the declarations and injunctions ordered against the respective NP Entities and obtain their acknowledgment, in writing, that they are aware of these before they enter into a contract with the relevant NP Entity (*ie*, the consumer notification and consent orders, or “CNC Orders”).

10.88 The NP Entities appealed against the Publication Orders and the CNC Orders, but this was dismissed by the High Court on 28 July 2023. In the light of the NP Entities’ unsuccessful appeals, CCCS monitored the NP Entities’ activities and found that they, as well as their managing director, Kaiden Cheng Kai Teng (“Kaiden Cheng”), had failed to comply with the Publication and CNC Orders, giving rise to the following breaches:

(a) **First breach.** The NP Entities and Kaiden Cheng failed to publish details of the declarations and injunctions by the deadline of 18 August 2023 as required by the Publication Orders.

(b) **Second breach.** A notice published in the four major Singapore newspapers on 31 August 2023 by the NP Entities and Kaiden Cheng failed to fulfil the purpose and intent of the Publication Orders. The printed words in the notices were extremely small and were presented in a practically unreadable manner. Such notices did not secure adequate publicity of the details of the declarations and injunctions against the NP Entities. Further, the notices in all four major Singapore newspapers were made in English, and not in the respective languages in which the separate notices were meant to be published.

(c) **Third breach.** The NP Entities and Kaiden Cheng failed to notify, and obtain written acknowledgments of, consumers of the declarations and injunctions made against the NP Entities before entering into contracts with them, as required by the CNC Orders.

10.89 In November 2023, CCCS initiated committal proceedings against the NP Entities and Kaiden Cheng in the State Courts for breaches of the court orders and sought fines and imprisonment.

10.90 On 9 September 2024, a District Court found that the NP Entities and Kaiden Cheng were guilty of contempt of court for failing to comply with court orders obtained by CCCS in relation to unfair trade practices under the CPFITA. The NP Entities were fined \$15,000 each, while Kaiden Cheng was sentenced to four months' imprisonment.

10.91 The District Court's findings convey admonishment for the deliberate and persistent conduct by the NP Entities and Kaiden Cheng in disregard of their existing obligations. Moreover, the court found that the imprisonment term for Kaiden Cheng was appropriate as the continuing breaches by the NP Entities were irremediable and had prejudiced the public at large.

D. *Forthcoming market study on digital advertising services*

10.92 CCCS, in collaboration with the Personal Data Protection Commission, will be conducting a study on digital advertising services. The forthcoming market study, alongside the enforcement cases from 2024, reflects that digital platforms are likely to be an area of interest for CCCS in the consumer protection space.

10.93 The tender for the provision of consultancy services for the study was issued on 29 July 2024 and closed on 16 August 2024. The tender documents, requiring the consultant to address selected issues, surface some areas that are of interest to CCCS:

- (a) illustrating the ecosystem and value chain for the search advertising and display advertising ecosystem in Singapore;
- (b) identifying the sources and measures of market power for each type of digital advertising, including identifying the top five digital advertising players and their respective estimated market share;
- (c) providing the estimated spending on different types of advertising by advertisers in Singapore;
- (d) for open display advertising, providing the revenue flow from advertisers to publishers in the value chain; and
- (e) identifying the key privacy-enhancing technologies which are being considered and/or used by the search advertising and display advertising ecosystem in Singapore.

10.94 At the time of writing, there is no indication of when the market study will be published.
