



Competition Commission of Singapore: Our Competition Advocacy Journey



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INTRODUCTION

The Competition Commission of Singapore (“CCS”) was established as a statutory board under the Ministry of Trade and Industry (“MTI”) in January 2005 and is empowered to administer and enforce the Competition Act (Cap. 50B, hereafter “the Act”). There are three main prohibitions under the Act. These are:

- The Section 34 prohibition, which prohibits agreements between undertakings, decisions by associations of undertakings or concerted practices that prevent, restrict or distort competition within Singapore;
- The Section 47 prohibition, which prohibits any conduct on the part of one or more undertakings, that is an abuse of a dominant position, in any market in Singapore; and
- The Section 54 prohibition, which prohibits mergers and acquisitions that result in a substantial lessening of competition within Singapore.

CCS’s mission is to make markets work well to create opportunities and choices for businesses and consumers in Singapore. CCS adopts a two-pronged approach to achieve this. Firstly, we enforce the Act by taking stern action against undertakings that infringe the Act. Secondly, we advocate the importance of competition in the marketplace by (i) encouraging businesses to voluntarily comply with the requirements under the competition law, (ii) educating consumers on the benefits of competition, and, (iii) advising government agencies on how to achieve their policy objectives with the least impact on market competition.

COMPETITION ADVOCACY

“Competition advocacy refers to those activities conducted by the competition authority related to the promotion of a competitive environment for economic activities by means of non-enforcement mechanisms, mainly through its relationships with other governmental entities and by increasing public awareness of the benefits of competition.”²





To achieve its mission, CCS's advocacy effort focuses on four key target audiences: 1) the private sector (i.e. local businesses and competition practitioners); 2) the general public; 3) the public sector (i.e. government agencies) and; 4) overseas competition authorities.

A. *Outreach To The Private Sector*

1. Local Businesses

As enforcer of the Act, CCS is aware that concepts within competition law may be new to some businesses. CCS therefore strives to ensure that the business community is aware of the importance of competition law compliance, that there is broad engagement with different business groups and trade associations through talks and exhibitions, and pertinent information on competition compliance is made available as widely as possible and in a timely manner.

In this regard, CCS has set up a dedicated webpage³ to guide businesses on competition law compliance. A publication on Competition Compliance Program ("CCP") is made available on the webpage. It broadly explains the importance of CCP and how businesses should go about putting together a CCP. To make the publication accessible to more businesses, it is available in both English and Chinese languages. An interactive training module has also been developed for businesses to educate their staff on the "Dos and Don'ts" under the Act.⁴ This training module is especially useful for Small and Medium Enterprises ("SMEs")⁵ that may struggle to find the necessary expertise and resources to put in place a CCP.

CCS's collaterals serve as another important outreach tool to educate stakeholders on recent developments in competition policy and law ("CPL"). Over the years, CCS has developed various collaterals, which have been well received locally and internationally. Besides the CCP publication, there is a series of manga comics⁶ as well as leaflets (available in English and Chinese) covering four different topics, namely the merger notification process, business information exchange as a potential infringement of competition law, and case studies on price-fixing and abuse of dominance cases in Singapore.

To ensure the collaterals remain relevant to businesses, CCS has recently revamped its collaterals and developed new booklets that contain useful information such as the key prohibitions under the Act, and what businesses can do to protect their business.

2. Recent Example of CCS's Competition Advocacy to Local Businesses: e-Commerce

E-Commerce activities in Singapore are growing rapidly and the size of Singapore's online retail market was estimated to have reached S\$4.4 billion in 2015, which is four times the size of the market in 2010.⁷ However, there is still considerable potential for growth. Online sales account for only 4-5 percent of total retail sales in Singapore whereas in mature e-Commerce markets such as China, UK and the US, online sales account for 10 percent, 13 percent and 6.5 percent of total retail sales respectively.

E-Commerce facilitates the entry and expansion of businesses. In particular, companies are able to use e-Commerce to overcome traditional limitations they face in Singapore, such as rental cost, manpower shortages, and small market size. With e-Commerce, businesses are able to reach a wider pool of customers beyond Singapore's shores.

Given the potential growth of e-Commerce activities in Singapore and the benefits they can bring to local businesses, CCS commissioned a study in 2015⁸ to better understand the development and characteristics of e-Commerce, the competition issues that e-Commerce activities can give rise to, as well as the implications of e-Commerce on CPL in Singapore. The key findings were presented at the CCS e-Commerce Seminar held





on December 2, 2015.⁹ Speakers from public and private sectors provided insights to local businesses on how to ride the e-Commerce wave and navigate the competition landscape in Singapore and regionally. CCS intends to continue its work on how competition policy and law can facilitate the adoption of e-Commerce by businesses and consumers in ASEAN.

3. Competition Practitioners (i.e. private practice lawyers and economists)

To cater to stakeholders who require more in-depth understanding of competition law and economics, CCS and the Singapore Academy of Law (“SAL”) jointly organized the CCS-SAL Competition Law Seminar in August 2014. The event brought together competition practitioners, government regulators, academia and businesses to exchange views on the challenges, successes and lessons learnt since the introduction of competition law in Singapore, as well as the role of competition law and CCS for the years ahead. Issues such as multi-jurisdictional leniency applications, competition compliance for transnational businesses, as well as fast-track settlements and commitments were debated upon during the seminar.

CCS also regularly organizes roundtables involving competition practitioners, with the aim of facilitating their understanding on how CCS uses competition law and economics in its investigation and enforcement activities as well as to obtain their feedback and views on specific topics. For example, CCS organized a competition economics roundtable in January 2015 to discuss topics such as Vertical Restraints and Most Favored Nation clauses. A legal roundtable was held in March 2015 to obtain feedback on several existing practices as well as new initiatives that CCS was contemplating.

B. *Outreach To General Public*

To raise the level of awareness of competition law and its benefits among the general public including students, CCS adopted a more creative and accessible approach. CCS has organized three runs of the CCS Animation Contest since 2011. The aim of the contest is to encourage young students and professionals to explain the Act to the public in a creative manner. For example, in 2014, entries to the contest consisted of animation clips explaining the three key prohibitions in the Act.¹⁰

CCS also organized essay competitions to encourage the public, particularly students, to discover more about competition law. The inaugural CCS-ESS¹¹ Essay Competition held in 2014, sought to promote awareness and understanding of competition law and to encourage debate on competition policy and issues in Singapore. The essay competition received very good entries from students from pre-university and university levels, as well as entries from private law firms and economic consulting firms.¹² Due to the positive feedback received, CCS will be organizing the CCS-ESS Essay Competition again in 2016, on the topic of Disruptive Innovation.¹³

CCS has also actively leveraged on social media for its outreach efforts. Different social platforms are deployed to cater to different target audiences. For example, Facebook¹⁴, Twitter¹⁵ and YouTube¹⁶ cater to the general public, while the Competitive Edge e-Newsletter¹⁷ is aimed to reach out to the local business community. The CCS blog¹⁸ on the other hand is specifically targeted at competition practitioners or professionals (e.g. competition authorities, lawyers, economists and academics).

Moving forward, CCS intends to quantify the benefits of competition law enforcement to assess how its interventions have led to better outcomes in the market. This will enable the public to better appreciate the purpose and benefits of CCS’s interventions and in turn, support CCS’s work to create well-functioning markets.

C. *Advocacy To The Public Sector*

1. Importance of Government Advocacy





Competition may be impeded, not only by anti-competitive behavior by businesses, but also, inadvertently, by government's participation in markets. The government can participate in markets directly (for example as a seller or buyer) or indirectly (for example through regulation or taxes and subsidies). The way in which the government chooses to participate in markets can bring about different impacts on competition in affected markets. Further, the activities, agreements and conduct of the government and its statutory bodies are generally excluded from the Act.¹⁹ As such, it is of utmost importance that adequate resources are committed on advocacy to government agencies, to ensure that they understand and give due consideration to competition issues arising from their policies and initiatives.

2. Policy and Markets Division

CCS has the duty to advise the government agencies on national needs and policies with respect to competition matters. CCS set up the Policy and Markets Division ("PM Division") in January 2014 to dedicate resources on engaging and advising government agencies on competition matters, and to conduct market studies and research projects. With the formation of the new PM Division, CCS has seen a substantial increase in numbers of advisory requests from 8 in 2012/13 to 31 in 2014/15 – almost a fourfold increase.

CCS's government advocacy efforts take many forms – including development of new collaterals, providing competition advice, carrying out joint market studies, organizing seminars for sector regulators to network and share best practices, and conducting technical workshops.

3. New Collaterals for Government Officials

CCS has developed new collaterals targeted specially at government officials. As part of the recent revamp of CCS's collaterals, a new booklet – *Competition Act and Government Agencies* targeted at public officers was created. A dedicated webpage for government agencies²⁰ was also created. The collaterals contain information on how government agencies can approach CCS for advice, how they can go about assessing the competition impact of their initiatives, and examples of CCS's past advice.

4. CCS's Advisories

Over the past years, CCS worked closely with various government agencies to gain a better understanding of the markets they oversee, and to provide competition advice on a wide range of activities within these markets.

5. Examples of CCS's Competition Advice to Government Agencies

Advice to MOM and WDA on JobsBank

In April 2014, the Ministry of Manpower ("MOM") and the Singapore Workforce Development Agency ("WDA") consulted CCS in relation to the proposed new Jobs Bank web portal ("Jobs Bank"), particularly on whether the creation of Jobs Bank will lead to any competition concerns. The Jobs Bank, administered by WDA, is a free service provided to all Singapore-registered employers and local individuals to make job vacancies more visible to local job seekers and allows employers to have access to a larger pool of candidates. The Jobs Bank also supports MOM's Fair Consideration Framework that requires employers to consider Singaporeans fairly for job opportunities.

CCS worked closely with MOM and WDA to better understand the design of Jobs Bank, after which CCS conducted a competition impact assessment to assess how Jobs Bank will affect competition in the online





recruitment portal market in Singapore. In its assessment, CCS noted the potential benefits that Jobs Bank may bring. CCS also provided MOM and WDA with several recommendations aimed at maintaining competition in the market, including how information relating to Jobs Bank should be disseminated to the industry, so that no interested parties are unintentionally left out.

6. Third-party Taxi Applications Recognized by the International Competition Network and the World Bank Group

CCS's efforts in government advocacy have not gone unnoticed. Singapore was named a winner at the 2014 Competition Advocacy Contest organized by the International Competition Network and the World Bank Group for CCS's work in promoting competition in the taxi industry. CCS had worked together with the Land Transport Authority ("LTA") to facilitate the entry of third-party taxi booking applications (third-party apps), while ensuring that taxi commuters' interests are safeguarded regardless of whether a booking is made through a taxi company or a third-party taxi booking service provider.

Third-party apps help to improve the matching of taxi supply and demand, especially during peak hours. Taxi drivers also benefit by being able to get passengers from varied sources of taxi booking. In formulating its regulatory approach, LTA worked with CCS to assess the competition impact of these third-party taxi booking apps on the taxi industry, as well as how to encourage innovation within the market, while preserving the fundamental tenets of LTA's taxi regulatory policies.

7. Market Studies

CCS proactively conducts in-depth market studies in selected markets to better understand the structure and dynamics of these markets, and to identify areas where competition can be improved to benefit both consumers and businesses. The findings of these market studies have been shared with relevant government agencies. For example, CCS shared the findings from its e-Commerce study with the relevant government agencies so that they would have a better appreciation of market development and potential regulatory issues that could impede the growth of e-Commerce businesses in Singapore. CCS also assists government agencies by jointly conducting market studies into specific markets, so that they have the necessary insights and inputs for their policy formulation and review.

8. Community of Practice for Competition and Economic Regulations

The Community of Practice for Competition and Economic Regulations ("COPCOMER") was established in December 2013 as an inter-agency platform for CCS, sector competition regulators and other government agencies to share best practices and experiences on competition and regulatory matters.

Together with the Civil Service College and the Public Service Division, CCS facilitates regular activities for the COPCOMER agencies. Some of the activities include hosting an annual gathering for senior representatives from COPCOMER agencies to discuss emerging competition and regulatory issues Singapore faces, seminars for government agencies to share their experiences on competition and regulatory issues, and specialized workshops to equip COPCOMER officers with the necessary technical knowledge. Newsletters are also circulated to COPCOMER agencies regularly to raise awareness on key competition and regulatory developments overseas.

D. *Outreach to Overseas Competition Authorities*

The open and global nature of Singapore's economy means that Singapore is inextricably tied to developments in the regional and global economy. Against this backdrop, CCS actively participates in and contributes to both regional and international events in the area of CPL. This will enable CCS to forge ties and cooperate with





competition authorities overseas to foster a culture of fair competition and compliance and also, to minimize cross-border anti-competitive practices that adversely affect domestic as well as international trade and hinder economic development.

Regionally, CCS has been active since the establishment of the ASEAN Experts Group on Competition (AEGC) in 2008 to serve as an official network for competition agencies and other relevant authorities in ASEAN for the exchange of policy experiences and institutional arrangements on competition policy and law. CCS took on the inaugural chairmanship of AEGC and helped to set up three working groups, which were tasked to look into capacity building for the region, formulating a set of ASEAN Regional Guidelines on CPL and developing a Handbook on CPL in ASEAN for Businesses. CCS also chaired the work group on developing ASEAN Regional Guidelines on CPL, which was completed in 2010 and served as a useful, common reference for all ASEAN Member States (AMSs) on international best practices in CPL development and implementation.

Currently, CCS is chairing the Working Group on Regional Advocacy to develop a toolkit/handbook to guide AMSs on conducting effective advocacy campaigns, with the aim of helping AMSs to more effectively reach out and engage various stakeholder groups in their respective countries. Other recent deliverables of this Working Group include the development and launch of an AEGC regional web portal²¹ in 2013 (which serves as a one-stop information center on CPL in all AMSs) and the publication of collaterals to raise public awareness on CPL in the region.

CCS has also contributed to capacity building and technical assistance activities to help AMSs establish and implement CPL. Apart from hosting staff attachments from AMSs in 2013 and 2015, CCS collaborated with the U.S. Federal Trade Commission and the U.S. Department of Commerce to conduct a five-day training program in 2015 for representatives from ASEAN competition authorities, on procedural fairness relating to competition law enforcement. It also hosted various conferences and workshops to exchange CPL experiences among competition authorities in ASEAN, including the Third ASEAN Competition Conference in 2013 and a workshop on promoting competition law compliance in 2014.

On the international front, CCS participates actively in international forums such as the International Competition Network (“ICN”), the Organisation for Economic Cooperation and Development (“OECD”) and the Asia-Pacific Economic Cooperation (“APEC”) to promote competition policy and law. In June 2015, CCS partnered the OECD-Korea Policy Centre to host a “Leaders Seminar on Advocacy” in Singapore. The objective of the seminar was to help authorities from the Asia Pacific region dealing in competition matters equip themselves with the experience, know-how and tools for advancing the acceptance and promotion of competition policy to various groups of stakeholders in their own economies. The seminar attracted about 50 participants that included senior experts on advocacy, including several heads and former heads of competition authorities.

CCS’s regular participation in ICN events also provides it with the opportunity to engage the global competition community and be updated on the latest developments on competition law around the world. In particular, CCS will be hosting the 2016 ICN Annual Conference from 26-29 April in Singapore. This is the first time the ICN Annual Conference will be hosted in Southeast Asia, and takes place in the context of an exciting state of competition law developments in the region over the past few years. This year’s ICN Annual Conference includes a Special Plenary on “Building Economic Communities with Competition Policy” that will be led by established panelists. This is particularly meaningful given the establishment of the ASEAN Economic Community in 2015. Also, having the global competition community and ASEAN representatives gathered in Singapore for the Conference to discuss the latest CPL developments will serve as a catalyst to further strengthen the CPL developments in this region.

In addition, CCS is undertaking a special project on government advocacy and disruptive innovations with the assistance of several ICN members.





Disruptive innovations refer to new products/services, manufacturing processes and business models that drastically alter markets. While disruptive innovations may give rise to new business opportunities and can help to enhance competition, they may also raise public concerns in areas such as employment, consumer protection, safety and health, which may require government regulations. Hence, disruptive innovations can bring unique challenges to competition authorities by creating tension between regulation and competition policy.

Competition agencies have an important role to play in advocating for regulations that strike a balance between achieving public policy objectives and promoting a conducive environment that enables the entry and expansion of disruptive firms in order to increase competition within these markets. In this regard, the 2016 ICN Special Project led by CCS will survey ICN members on the critical success factors for competition advocacy, the different approaches undertaken for competition advocacy as well as recommended practices for successful competition advocacy with regard to disruptive innovations.

CONCLUSIONS

Even with a decade of advocacy experience under its belt, CCS continues to face challenges moving forward. One of the key challenges is keeping pace with technological advancements and the disruptive changes they bring about in the market. CCS needs to understand these market changes so that it can ensure that its analytical frameworks remain sufficiently robust. At the same time, it needs to be knowledgeable about these new advancements so that it will remain a credible advocate to different stakeholders.

The CCS will be conducting its Stakeholder Perception Survey (“SPS”)²² in 2016 to do a “dip-stick” test among various key stakeholder groups to gauge their CPL awareness level and the general competition culture in Singapore. The SPS also helps to identify areas for improvement in terms of outreach/advocacy. To this end, CCS will continue to develop and implement various engagement platforms with various stakeholder groups to garner support for its work.





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- ² ICN's definition of competition advocacy, adopted in its 2002 report on Advocacy and Competition Policy.
<http://www.internationalcompetitionnetwork.org/uploads/library/doc358.pdf>
- ³ <https://www.ccs.gov.sg/tools-and-resources/conducting-a-compliance-programme>
- ⁴ <https://www.ccs.gov.sg/tools-and-resources/education-resources/interactive-learning-or-e-learning>
- ⁵ Singapore's definition of SME: "A company's annual sales turnover of not more than S\$100 million OR employment size not more than 200 workers."
- ⁶ <http://www.ccs.gov.sg/tools-and-resources/education-resources/manga>
- ⁷ SingPost reported Euromonitor estimates of online shopping sales value of US\$3.45 billion (approximately S\$4.66billion) in 2015 (SP eCommerce, 2014, eCommerce in Singapore: 9 Must Knows: http://www.specommerce.com.s3.amazonaws.com/dl/fs/141211_fs_singapore_factsheet.pdf). PayPal (2011) forecasts the online shopping market to hit S\$4.4billion in 2015.
- ⁸ <https://www.ccs.gov.sg/~media/custom/ccs/files/media%20and%20publications/publications/occasional%20paper/e-commerce%20in%20singapore/dotecon%20ecommerce%20final%20report.ashx>
- ⁹ <https://www.ccs.gov.sg/tools-and-resources/events/e-commerce-in-singapore>
- ¹⁰ <http://www.ccs.gov.sg/media-and-publications/ccs-campaigns/ccs-animation-contest>
- ¹¹ CCS partners the Economic Society of Singapore ("ESS") for this competition.
- ¹² <https://www.ccs.gov.sg/media-and-publications/ccs-campaigns/ccs-ess-essay-competition-2014>
- ¹³ <http://www.ccs.gov.sg/media-and-publications/ccs-campaigns/ccs-ess-essay-contest>
- ¹⁴ <https://www.facebook.com/ccs.sg>
- ¹⁵ <https://twitter.com/CompetitionSG>
- ¹⁶ <https://www.youtube.com/user/theccs05>
- ¹⁷ <http://www.ccs.gov.sg/media-and-publications/publications/e-newsletter-competitive-edge>
- ¹⁸ <http://www.ccs.gov.sg/media-and-publications/ccs-blog>
- ¹⁹ Section 33(4) of the Act provides that the Act shall not apply to any activity carried on by, any agreement entered into or any conduct on part of (a) the government; (b) statutory body; or (c) any person acting on behalf of the government or that statutory body, as the case may be, in relation to the activity, agreement or conduct.
- The reason for the exclusion is because the intent of competition law is to regulate conduct of market players, and not the government and statutory bodies that perform public and statutory functions.
- ²⁰ <https://www.ccs.gov.sg/approach-ccs/seeking-advice-by-government-agencies>
- ²¹ <http://www.aseancompetition.org/>
- ²² <https://www.ccs.gov.sg/media-and-publications/publications/ccs-stakeholder-perception-survey>

