

**Section 57 of the Competition Act (Cap. 50B)**

**Grounds of Decision issued by the Competition and Consumer Commission of Singapore**

**In relation to the notification for decision of the proposed acquisition by Japan Pulp and Paper Company Limited of Spicers Paper (Singapore) Pte Ltd pursuant to Section 57 of Competition Act (Cap. 50B)**

**27 November 2018**

**Case number: CCCS 400/009/18**

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<p>Confidential information in the original version of this Decision has been redacted from the published version on the public register. Redacted confidential information in the text of the published version of this Decision is denoted by [§&lt;].</p>
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## **I. Introduction**

### **The Notification**

1. On 16 October 2018, Japan Pulp and Paper Company Limited (“**JPP**”) filed a notification pursuant to section 57 of the Competition Act (Cap. 50B) (“**the Act**”) for a decision by the Competition and Consumer Commission of Singapore (“**CCCS**”) as to whether the proposed acquisition by JPP of Spicers Paper (Singapore) Pte Ltd (“**Spicers Singapore**”) (the “**Proposed Transaction**”) will infringe the prohibition in section 54 of the Act, if carried into effect.
2. In reviewing the Proposed Transaction, in addition to conducting a public consultation, CCCS sought third party feedback from thirteen (13) paper suppliers and fifty-three (53) customers of paper-related products and services.
3. At the end of the consultation process and after evaluating all the information including JPP’s submissions and the feedback from third parties, CCCS concludes that the Proposed Transaction, if carried into effect, will not infringe section 54 of the Act. Specifically, CCCS is of the view that there are low risks of:
  - a. Non-coordinated effects due to the availability of alternative paper suppliers which price sensitive customers can switch to and the lack of significant barriers to expansion preventing alternative paper suppliers from increasing their supply of paper products in Singapore; and
  - b. Coordinated effects due to low price transparency in the supply of paper products in Singapore, some degree of dissimilarity between paper suppliers, lack of significant barriers to entry and expansion, as well as volatile market conditions for the supply of paper products in Singapore.

## **II. The Parties to the Proposed Transaction**

### **(a) The Acquirer**

#### **JPP**

4. JPP is the ultimate parent company of the OVOL Group, and is a public company listed on the Tokyo Stock Exchange.<sup>1</sup> Based on JPP's annual report for the financial year ended 31 March 2018, financial institutions collectively hold 28.9% of the shareholding in JPP,<sup>2</sup> while other companies collectively hold 28.2% of the shareholding in JPP.<sup>3</sup>
5. JPP's registered entity in Singapore is JPP Far East (S) Pte. Ltd. ("**JPPFE**"), which is a direct, wholly-owned subsidiary of JPP.<sup>4</sup> In Singapore, JPP trades under the name of JPPFE. JPPFE distributes various types of third party branded paper products and does not own these brands.<sup>5</sup>
6. JPP is a global business specialising in the wholesale distribution of paper, paperboard and related products, with operations in Japan, Asia, Oceania, the Americas and Europe. JPP's operations in Australia are carried out by (a) its Australian agent subsidiary, Japan Pulp & Paper (Australia), which is primarily involved in the supply of paper and related products, sourced from various paper mills all over the world mainly to local paper merchants, and (b) its Australian paper merchant subsidiary, Ball & Doggett Group, which is primarily involved in the distribution of paper and related products within the local market (e.g. printing companies, packaging companies, etc.). JPP is also involved in the manufacture of containerboard, household paper and packaging products, with facilities located in Japan, Indonesia and Vietnam.<sup>6</sup>
7. In Singapore, JPPFE is a distributor of office papers, offset printing papers, specialty papers, synthetic papers and related products. JPPFE distributes paper to customers from varied industries, ranging from printers, educational institutes, ministries, banks, copy centres and walk-in individuals. JPPFE also imports paper from overseas including Japan, Korea, China, Europe, and Indonesia.<sup>7</sup>

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<sup>1</sup> Paragraphs 7.1 and 8.1 of Form M1.

<sup>2</sup> JPP's major shareholders as of 31 March 2016 include Oji Holdings Corporation, Trust & Custody Services Bank, Ltd. as trustee for the Nippon Paper Industries Co., Ltd., Retirement Benefit Account re-entrusted by Mizuho Trust and Banking Co., Ltd., Japan Trustee Services Bank, Ltd (Trust Account), Japan Pulp and Paper Company Limited Shareholding Association, The Master Trust Bank of Japan, Ltd (Trust Account), Hokuetsu Kishu Paper Co., Ltd., JP Employee Shareholding Association, Chuetsu Pulp & Paper Co., Ltd., Mizuho Bank, Ltd., Sumitomo Mitsui Trust Bank, Limited and Sumitomo Mitsui Banking Corporation.

<sup>3</sup> Paragraph 8.2 of Form M1.

<sup>4</sup> Paragraph 10.1 of Form M1.

<sup>5</sup> Paragraph 10.3 of Form M1.

<sup>6</sup> Paragraph 10.5 of Form M1.

<sup>7</sup> Paragraph 10.8 of Form M1.

8. JPP's total (group) worldwide turnover for the financial year ending 31 March 2018 was approximately S\$6.3 billion.<sup>8</sup> JPP's total (group) Singapore turnover from sales to customers in Singapore<sup>9</sup> for financial year ending 31 December 2017 was approximately S\$ [X].<sup>10</sup>

**(b) The Seller and the Target**

Spicers Singapore

9. Both Spicers Holdings (Asia) Pte Ltd (“**Spicers Holdings**” or “the **Seller**”) and Spicers Singapore are indirect, wholly owned subsidiaries of Spicers Limited, the ultimate parent company of the Spicers group. Spicers Limited is a public company listed on the Australian Stock Exchange.<sup>11</sup> Both the Seller and Spicers Singapore are companies incorporated in Singapore. Spicers Singapore does not have any subsidiaries in Singapore.<sup>12</sup> Spicers Singapore carries on its business in Singapore under the name of Spicers Paper (Singapore) Pte Ltd.<sup>13</sup>
10. Spicers Singapore is part of the international conglomerate Spicers Limited, which has business operations in Australia, New Zealand and Asia. Spicers Limited supplies high quality and sustainable printing and visual communication materials in the following markets: commercial print paper products, digital media, label and packaging materials, industrial packaging supplies, sign and display consumables and hardware and architectural.<sup>14</sup>
11. Spicers Singapore is a wholesale distributor of paper and other visual communication materials, including papers for digital printing and products for Sign & Display. Spicers Singapore's products include recycled paper and paper from sustainable sources as certified by the Programme for the Endorsement of Forest Certification and Forest Stewardship Council.<sup>15</sup> Spicers Singapore's total (group) worldwide turnover for the financial year

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<sup>8</sup> Paragraph 13.1 of Form M1.

<sup>9</sup> JPP clarified in Paragraph 10.1 of JPP's 26 October 2018 response to CCCS' RFI of 22 October 2018 that the revenue of S\$ [X] does not include turnover from JPPFE's sales to customers outside Singapore (which comprise approximately S\$ [X]).

<sup>10</sup> Paragraph 13.3 of Form M1.

<sup>11</sup> Paragraph 7.2 of Form M1.

<sup>12</sup> Paragraph 10.2 of Form M1.

<sup>13</sup> Paragraph 10.4 of Form M1.

<sup>14</sup> Paragraph 10.6 of Form M1.

<sup>15</sup> Paragraph 10.9 of Form M1.

ending 30 June 2018 was approximately SGD [X].<sup>16</sup> Spicers Singapore's total (group) Singapore turnover for the financial year ending 30 June 2018 was approximately SGD [X].<sup>17</sup>

### III. The Proposed Transaction

#### Nature of the Proposed Transaction

12. The Proposed Transaction relates to an anticipated acquisition of full control of JPP over Spicers Singapore.<sup>18</sup> The Proposed Transaction will involve JPP acquiring 100% of the issued shares of Spicers Singapore from Spicers Holdings. Hence, following completion of the Proposed Transaction, JPP will hold and control 100% of the issued shares of Spicers Singapore.<sup>19</sup> JPP will also be acquiring 100% of the issued shares of Spicers Paper (Malaysia) Sdn Bhd ("**Spicers Malaysia**"). [X].<sup>20</sup>
13. The purchase price to be paid by JPP is S\$ [X], but is subject to adjustments for other components in accordance with the terms of the Share Sale Agreement ("**SSA**").<sup>21</sup> The SSA in respect of the Proposed Transaction was executed by JPP and the Seller on 26 September 2018. JPP submitted that the [X].<sup>22</sup> [X].<sup>23</sup>

#### Merger under Section 54 of the Competition Act

14. Based on JPP's submissions regarding the structure of the Proposed Transaction, CCCS is of the view that the Proposed Transaction constitutes a merger pursuant to section 54(2)(b) of the Act as JPP will acquire direct and full control over Spicers Singapore.

### IV. Competition Issues

15. In evaluating the Proposed Transaction, CCCS identifies overlapping products/services provided by the merging parties. JPP submitted that JPP and Spicers Singapore (the "**Parties**") overlap in the supply of coated paper,

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<sup>16</sup> Paragraph 13.2 of Form M1.

<sup>17</sup> Paragraph 13.4 of Form M1.

<sup>18</sup> Paragraph 11.1 of Form M1.

<sup>19</sup> Paragraph 11.3 of Form M1.

<sup>20</sup> Paragraph 11.4 of Form M1.

<sup>21</sup> Paragraph 11.7 of Form M1.

<sup>22</sup> Paragraph 11.8 of Form M1.

<sup>23</sup> Paragraph 11.9 of Form M1.

uncoated woodfree paper, copy paper, coated board (including both cartonboard and paperboard, as well as both 1 sided and 2 sided coated board), carbonless paper and synthetic paper (collectively, the “**Overlapping Products**”).<sup>24</sup> JPP also submitted there are no vertical relationships between the Parties.<sup>25</sup>

16. Given the above, CCCS has focused its assessment of the Proposed Transaction on the supply of coated paper, uncoated woodfree paper, copy paper, coated board, carbonless paper and synthetic paper. In evaluating the potential impact of the Proposed Transaction, CCCS considered whether the Proposed Transaction will lead to coordinated and/or non-coordinated effects that would substantially lessen competition or raise competition concerns in any market(s) in Singapore.

## **V. Counterfactual**

17. CCCS has considered JPP’s submissions and agrees that the relevant counterfactual for the purposes of CCCS’s competition assessment is the prevailing conditions of competition prior to the Proposed Transaction. Absent the Proposed Transaction, the Parties will continue their business operations independently and compete in the wholesale supply of printing and communications paper (“PCP”), paperboard products and carbonless paper.

## **VI. Relevant Markets**

18. Based on JPP’s and third parties’ submissions, CCCS assessed that the relevant markets for the competition assessment of the Proposed Transaction are:
  - a. Wholesale supply of PCP in Singapore;
  - b. Wholesale supply of paperboard products in Singapore; and
  - c. Wholesale supply of carbonless paper in Singapore.

## **VII. Market Structure**

### **(a) Market shares and market concentration**

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<sup>24</sup> Paragraph 15.1 of Form M1.

<sup>25</sup> Paragraph 36.1 of Form M1.

19. Based on the market share figures submitted by JPP, CCCS notes that the Parties are currently the [X] and [X] largest paper merchants in the market for wholesale supply of PCP and paperboard products. The Proposed Transaction would result in the Parties becoming the largest paper merchant in the market with a market share of [10-20]%, which is below CCCS's indicative thresholds of a merger situation that may raise competition concerns. With respect to the markets for (a) wholesale supply of PCP; and (b) wholesale supply of paperboard products separately, the combined market shares estimated by JPP are also [10-20]% and not indicative of competition concerns.
20. However, CCCS notes from JPP's submission that no specific methodology was used for any of the estimated figures for paper and board products, PCP products and paperboard products. Instead, they are internal estimates of JPP.<sup>26</sup> CCCS is therefore unable to verify the market shares methodology nor the market shares submitted.
21. Regarding the market for the wholesale supply of carbonless paper, CCCS notes from JPP's submission that the Parties are currently the [X] and [X] largest paper merchants in the market. JPP submitted that computer form manufacturers procure carbonless paper from various paper mills (whether directly or via a mill agent) and do not procure carbonless paper from paper merchants like JPP or Spicers Singapore.<sup>27</sup> The Proposed Transaction would result in the Parties becoming the largest paper merchant in the market with a market share of about [25-35]%, and significantly larger than the next closest competitor.
22. However, CCCS notes from JPP's submission that no specific methodology was used for any of the estimated figures for carbonless paper. Instead, they are internal estimates of JPP.<sup>28</sup>
23. Given that JPP has been unable to substantiate its methodology used to estimate market shares for the relevant markets, CCCS has also considered third party feedback and information in relation to the relative turnovers and volumes of each of the Parties and other major paper suppliers.

**(b) Barriers to entry and expansion**

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<sup>26</sup> Paragraphs 45.1, 48.3 and 49.3 of JPP's 29 October 2018 Responses to CCCS's RFI of 22 October 2018.

<sup>27</sup> Note 1 of Table 21.5 of Form M1.

<sup>28</sup> Paragraph 50.2 of JPP's 29 October 2018 Responses to CCCS's RFI of 22 October 2018.



24. While CCCS notes from third party feedback that there exist some barriers to entry, no third party has indicated that these barriers to entry are insurmountable or high. CCCS also notes JPP's submission that there are no technical, regulatory or IP related barriers to entry.<sup>29</sup> Hence, CCCS is of the view that the barriers to entry and expansion in the market for the wholesale supply of (a) PCP; (b) paperboard products; and (c) carbonless paper are likely not high or insurmountable.

**(c) Countervailing Buyer Power**

25. CCCS is of the view that customers would not generally be able to exercise countervailing buyer power post-Transaction given that customers are unable to self-supply or sponsor entry, and even [X] do not account for a significant portion of the Parties' revenue for each relevant market.

**VIII. Competition Assessment**

**(a) Non-coordinated effects**

*CCCS's assessment and conclusion on non-coordinated effects for the wholesale supply of PCP in Singapore*

26. With respect to copy paper, the information received does not suggest that Spicers Singapore is JPP's closest competitor in Singapore.
27. With respect to synthetic/specialty paper, the information received suggests that other paper merchants are major competitors and good alternatives for customers.
28. With respect to coated paper and uncoated woodfree paper, the information received suggests that the Parties are likely each other's closest competitor in Singapore. However, CCCS also notes that:
- a. Most customers that responded to CCCS's queries indicated that there are alternative paper suppliers that they are able to purchase from, and it is not difficult for them to switch between different paper suppliers.
  - b. Most of the customers indicated recent instances of switching and/or purchase from other paper suppliers besides the Parties and are not dependent on the Parties for paper supplies.

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<sup>29</sup> Paragraph 26.1 of Form M1

- c. Some customers do not identify the Parties as each other's best alternative, and instead identified other suppliers as each of JPP's and Spicers Singapore's best alternatives.
  - d. Customers are price-sensitive due to limited product differentiation, and would typically compare prices from different paper suppliers before purchasing from the supplier with the lowest quote.
  - e. Feedback from third parties generally suggests that large quantities can be placed through local agents of overseas paper mills.
  - f. Customers tend to have multiple suppliers at the same time.
  - g. There is at least one alternative paper merchant who is sufficient to be a competitive constraint to the Parties given its ability to supply customers.
29. Given the above assessment, CCCS is of the view that non-coordinated effects are unlikely to arise in the market for the wholesale supply of PCP in Singapore.

*CCCS's assessment and conclusion on non-coordinated effects for the wholesale supply of paperboard products in Singapore*

30. CCCS also notes that the Proposed Transaction is unlikely to raise concerns of non-coordinated effects in relation to paperboard products for the same reasons set out in paragraph 28 above.

*CCCS's assessment and conclusion on non-coordinated effects for the wholesale supply of carbonless paper in Singapore*

31. With respect to carbonless paper, CCCS notes that:
- a. Switching to other carbonless paper suppliers is easy given the availability of alternative suppliers such as the local sales agents of overseas paper mills.
  - b. JPP is a [X] supplier of carbonless paper in Singapore than Spicers Singapore.
  - c. A competitor gained market share relative to [X] for carbonless paper from 2015 to 2017, while [X] lost market share relative to [X] over the same period.

32. Given the above assessment, CCCS is of the view that non-coordinated effects are unlikely to arise in the market for the wholesale supply of carbonless paper in Singapore.

**(b) Coordinated effects**

33. Given low price transparency in the supply of paper products in Singapore, some degree of dissimilarity between paper suppliers, lack of significant barriers to entry and expansion, as well as volatile market conditions for the supply of paper products in Singapore, CCCS is of the view that the Proposed Transaction is unlikely to raise concerns of coordinated effects in relation to the markets for the supply of PCP, paperboard products, and carbonless paper in Singapore.

**(c) Conclusion on competition assessment**

34. Considering CCCS's conclusions in relation to the lack of non-coordinated and coordinated effects from the Proposed Transaction, CCCS is of the view that the Proposed Transaction is unlikely to lead to a substantial lessening of competition ("SLC") in the relevant markets. Given that the above competition assessment did not raise SLC concerns, CCCS is of the view that it is not necessary to make an assessment on the claimed efficiencies by JPP.

**IX. Ancillary Restrictions**

35. JPP has submitted clause [X] of the Share Sale Agreement ("SSA")<sup>30</sup> as an ancillary restriction to the notified Proposed Transaction. This non-compete clause prevents [X]:<sup>31</sup>
- a. [X];<sup>32</sup>
  - b. [X]
  - c. [X]<sup>33</sup> [X] (the "Non-Compete Obligation").
36. The Non-Compete Obligation applies to [X], and will apply for a period of [X] after Completion.

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<sup>30</sup> Annex A44 of Form M1.

<sup>31</sup> Paragraph 43.1 of Form M1.

<sup>32</sup> As defined in clause [X] of the SSA, "[X]."

<sup>33</sup> As defined in clause [X] of the SSA, "[X]."

37. CCCS is satisfied that the Non-Compete Obligation in the context of the Proposed Transaction is an ancillary restriction and consequently falls within the exclusion under paragraph 10 of the Third Schedule to the Act insofar as it is applicable to Singapore.

**X. Conclusion**

38. For the reasons above and based on the information available, CCCS has assessed that the Proposed Transaction, if carried out into effect, will not infringe section 54 of the Act. In accordance with section 57(7) of the Act, this decision shall be valid for a period of one year from the date of the decision.



Toh Han Li  
Chief Executive  
Competition and Consumer Commission of Singapore