

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 Topwin Investment Holding Pte. Ltd. of Food Junction Management Pte. Ltd. pursuant to section 57 of the Competition Act

15 October 2019

Case number: CCCS 400/140/2019/003

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 the Decision is denoted by [X]

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I. Introduction

The notification

1. On 4 September 2019, Topwin Investment Holding Pte. Ltd. (“**Topwin**”) 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 Topwin of Food Junction Management Pte. Ltd. (“**FJM**”) (the “**Proposed Transaction**”) will infringe the section 54 prohibition under 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 twenty (20) commercial property owners, property managers, developers and landlords (“**Landlords**”), forty (40) intermediate customers i.e. food vendors and eleven (11) competitors of Topwin and FJM (the “**Parties**”). CCCS also received feedback from thirty-seven (37) members of the public, who are individual consumers who purchase hot meals from the Parties’ food court premises, through its public consultation.
3. At the end of the consultation process and after evaluating all the information including Topwin’s submissions and the concerns raised by third-parties, CCCS concludes that the Proposed Transaction, if carried into effect, will not infringe section 54 of the Act.

II. The Parties to the Proposed Transaction

(a) The Acquirer

Topwin

4. Topwin is a wholly-owned subsidiary of Bread Talk Group Limited (“**BT**”) and its principal business activity is that of investment holding and the provision of management services. Topwin’s subsidiaries are in the business of rental of stalls in the food court premises that they manage, and sale of food and beverage in food court premises, in Cambodia, China, Hong Kong, Malaysia, Singapore, Taiwan and Thailand. As a group, BT’s primary business is in food and beverage retail, and it operates and franchises close

to a thousand outlets in various formats in and outside of Singapore, including bakeries, restaurants, food courts and cafes.¹

5. In Singapore, apart from Topwin, BT's registered entities comprise twenty-two (22) entities,² operating primarily under ten (10) trading names.³ The physical presence of BT in Singapore consists of forty-nine (49) bakeries, fourteen (14) food courts, twenty-nine (29) restaurants and seventy-eight (78) cafes. BT owns a commercial building (i.e. BreadTalk IHQ) which houses its head office and central kitchen facilities. It also operates another support kitchen facility within its own food court at Capitol Piazza, which only supplies ingredients and food items to BT's self-run stalls within the food court premises that it operates.⁴
6. BT's business of operating food courts and food court stalls in Singapore is solely operated by Topwin, through Topwin's only local subsidiary (which is wholly-owned), Food Republic Pte. Ltd. ("**Food Republic**").⁵ Food Republic primarily operates under the trading names of Food Republic, Food Opera, Sergeant Chicken Rice, Hot & Cold, He Niu Teppanyaki, Juice Bar, Balestier Bak Ku Teh, Piao Xiang Malas, and Hong Kong Hok Kee Noodle & Congee.⁶ BT (including Food Republic) does not operate any coffee shops or hawker centres, and does not manage any food court premises as a managing agent for another master lessor.⁷ BT also does not operate stalls at other third-party-operated food court, coffee shop and hawker centre premises.⁸ The full list of food courts and food court stalls operated by BT in Singapore can be found at **Annex A**.⁹

¹ Paragraphs 7.1, 7.2 and 10.7 of Form M1.

² The twenty-two (22) entities are BreadTalk Group Limited, BreadTalk Pte Ltd, Together Inc. Pte Ltd, BreadTalk International Pte Ltd, Star Food Pte Ltd, Imagine IHQ Pte Ltd, Imagine Properties Pte Ltd, BTG Vault Pte Ltd, Thye Moh Chan Pte Ltd, Queens Coffee Pte Ltd, Ramen Play Pte Ltd, Taster Food Pte Ltd, BTG-Song Fa Venture Pte Ltd, BTG-Shinmei Venture Pte Ltd, BTG-WPC Venture Pte Ltd, BTG-Pindao Venture Pte Ltd, BTG-Song Fa-Pindao Venture Pte Ltd, Taster Food International Pte Ltd, Perennial (Chijmes) Pte Ltd, JBT (China) Pte Ltd, Tate Projects Pte Ltd, and Pre 8 Investments Pte Ltd: Paragraph 10.2 of Form M1.

³ The ten (10) trading names are BreadTalk, Toast Box, Bread Society, Sō Ramen, Thye Moh Chan, Din Tai Fung, Nayuki, TaiGai, The Icing Room, and Wu Pao Chun Bakery: Paragraph 10.4 of Form M1.

⁴ Paragraph 10.9 of Form M1.

⁵ Save for the Toast Box and Din Tai Fung mini restaurants (located within the Food Republic-operated food court premises) which are operated under BreadTalk Pte Ltd and Taster Food Pte Ltd respectively: Paragraph 14.1 of Form M1; paragraph 10.1 of Form M1.

⁶ Paragraph 10.5 of Form M1.

⁷ Paragraph 14.2 of Form M1.

⁸ Paragraph 14.3 of Form M1.

⁹ Paragraphs 14.3 and 14.4 of Form M1.

7. The total (group) worldwide revenue of BT and Topwin for the financial year ended 31 December 2018 was S\$609.8 million and S\$[X] respectively.¹⁰ The total (group) Singapore revenue of BT and Topwin for the financial year ended 31 December 2018 was S\$352.6 million and S\$[X] respectively.¹¹

(b) The Seller and the Target

FJM

8. FJM is a wholly-owned subsidiary of Food Junction Holdings Limited (“FJH”), which is in turn an indirect, non-wholly-owned subsidiary of Auric Pacific Group Limited (“APGL”).¹² FJM’s principal business activity is in the operation of food court premises and food court stalls in Singapore and Malaysia,¹³ through two (2) wholly-owned subsidiaries, namely Food Junction Singapore Pte. Ltd. (“FJS”) and T&W Food Junction Sdn Bhd (“TWFJ”).
9. In Singapore, the physical presence of FJM comprises twelve (12) food courts, its head office unit and two (2) storage warehouses.¹⁴ FJM provides products and services in Singapore primarily under the trading names of Food Junction, Five Spice, 福将坊, The Food Place, The Food Market, Toast Junction, Western & Italian, Tanglin Fish Soup, Puchong Yong Tau Foo, Buntong Chicken Rice, Mala Society, Juice Barn, and Dessert+.¹⁵ FJM (including FJS) does not operate any coffee shops or hawker centres, and does not manage any food court premises as a managing agent for another master lessor.¹⁶ FJM (including FJS) also does not operate stalls at other third-party-operated food court, coffee shop and hawker centre premises.¹⁷ FJM and its subsidiaries do not operate their own central kitchens or food

¹⁰ Paragraph 13.1 of Form M1; paragraph 3.1 of Topwin’s 13 September 2019 response to CCCS’s 11 September 2019 Request for Information.

¹¹ Paragraph 13.1 of Form M1; paragraph 3.1 of Topwin’s 13 September 2019 response to CCCS’s 11 September 2019 Request for Information.

¹² Paragraphs 1.1 and 7.3 of Form M1.

¹³ Paragraph 10.8 of Form M1.

¹⁴ Paragraph 10.10 of Form M1; paragraphs 4.2 and 6.1 of Topwin’s 13 September 2019 response to CCCS’s 11 September 2019 Request for Information.

¹⁵ Paragraph 10.6 of Form M1.

¹⁶ Paragraph 5.1 of Topwin’s 13 September 2019 response to CCCS’s 11 September 2019 Request for Information.

¹⁷ Paragraph 14.6 of Form M1.

factories.¹⁸ The full list of food courts and food court stalls operated by FJM in Singapore can be found at **Annex A**.¹⁹

10. The total (group) worldwide revenue of FJM (including its subsidiaries) for the financial year ended 31 December 2018 was S\$[X]. The total Singapore revenue of FJM (including its subsidiaries) for the financial year ended 31 December 2018 was S\$[X].²⁰

III. The Proposed Transaction

Nature of the Proposed Transaction

11. The Proposed Transaction relates to an acquisition by Topwin of a hundred (100) percent of the total issued share capital in, and accordingly all of the businesses of, FJM, pursuant to the Share Purchase Agreement entered into between Topwin, FJH, APGL and BT on 30 August 2019 (the “SPA”).²¹
12. The completion of the Proposed Transaction is subject to the conditions precedent set out in clause 4, read with Schedule 3, of the SPA, which includes obtaining a clearance decision from CCCS.²²

Commercial rationale of the Proposed Transaction

13. According to BT, the Proposed Transaction is expected to enable BT to immediately add scale to its food court operations through the inclusion of twelve (12) FJM-operated food courts in Singapore. This would enable BT to:²³
 - a. achieve significant cost efficiencies through a centralised shared services team for the BT group of companies for support functions such as finance, human resource, IT and business development;
 - b. spread such overheads of the food court operations over the larger combined scale of the food court operations which results in lower costs of operations overall; and

¹⁸ Paragraph 36.1 of Form M1.

¹⁹ Paragraphs 14.6 and 14.7 of Form M1.

²⁰ Paragraph 13.2 of Form M1.

²¹ Paragraphs 11.1, 11.4 and Annex 5 of Form M1.

²² Paragraphs 11.6 and 11.7 of Form M1; Clause 4, read with paragraph 5 of Schedule 3, of the SPA.

²³ Paragraph 12.2 of Form M1.

- c. attract food chain operators as tenants by offering them access to a larger chain of food court operations under the “Food Republic” and “Food Junction” brands over more locations.
14. The Proposed Transaction will also enable BT to expand its presence in West Malaysia, including [§<].²⁴ Based on Topwin’s submissions regarding the structure of the Proposed Transaction, and the fact that Topwin is acquiring direct control of the whole total issued share capital of FJM pursuant to the SPA, CCCS is of the view that the Proposed Transaction constitutes a merger falling under section 54(2)(b) of the Act.

IV. Competition Issues

15. Topwin submitted that the Parties primarily overlap in (a) the sale of drinks, fruits, snacks, desserts and hot meals to individual consumers in food court premises, and (b) the rental of stalls to food vendors located within food court premises.²⁵
16. Topwin also submitted that there are no existing or potential vertical relationships between the Parties.²⁶ Whilst BT operates central kitchen facilities that supply ingredients and food items to the food retail outlets which it operates, such products are not supplied to any other third-party (including FJM) in Singapore. FJM and its subsidiaries do not operate their own central kitchens or food factories.
17. Given the above, CCCS has focused its assessment on whether the Proposed Transaction will lead to coordinated and/or non-coordinated effects that would substantially lessen competition in relation to (a) the sale of drinks, fruits, snacks, desserts and hot meals to individual consumers in food court premises, and (b) the rental of stalls to food vendors located within food court premises.

V. Counterfactual

18. In the absence of market feedback or evidence suggesting otherwise, CCCS considers the appropriate counterfactual to be the prevailing conditions of competition prior to the Proposed Transaction. Absent the Proposed

²⁴ Paragraph 12.3 of Form M1.

²⁵ Paragraph 15.1 of Form M1.

²⁶ Paragraph 36.1 of Form M1.

Transaction, BT and FJM would continue to operate independently in the sale of hot meals in food court premises, as well as the rental of stalls in food court premises.

VI. Relevant Markets

(a) Product Market

The rental of stalls to food vendors located within food court premises

Hawker centres and coffee shops

19. Third-party feedback is mixed in terms of whether food vendors consider renting stalls in hawker centres or coffee shop premises to be substitutable for renting stalls in food court premises. CCCS has received feedback to suggest that individual food vendors do consider hawker centres and coffee shops to be substitutable for food courts. This is mainly due to the lower rental fee required for hawker centres and coffee shops as compared to food courts. However, CCCS has also received feedback to suggest that food vendors that are body corporates or chain stall operators would generally not consider hawker centres or coffee shops to be substitutable for food courts. This is due to several differences between food courts vis-à-vis hawker centres and coffee shops, e.g., air-conditioned premises, price of food sold, business operation as well as the differing target audience.
20. Specifically for hawker centres, third-party feedback indicated that food vendors which are body corporates or chain stall operators operating in food court premises will not be able to switch to renting stalls in hawker centres as only individuals who are Singapore citizens or permanent residents are permitted to lease hawker stalls. As pointed out in *NTUC Enterprise/Kopitiam*,²⁷ while food vendors operating in food court or coffee shop premises are allowed to hire foreign workers, food vendors are prohibited from doing so in hawker centres under the National Environment Agency (“NEA”)’s National Hawker Policies. A feedback indicated that there is a limited number of hawker licences each hawker can hold²⁸, which suggests that body corporates or chain stall operators operating in food court

²⁷ CCCS 400/008/18 *In relation to the notification for decision of the proposed acquisition of Kopitiam Investment Pte Ltd by NTUC Enterprise Co-operative Limited pursuant to section 57 of the Competition Act (Cap. 50B)* (18 December 2018).

²⁸ According to NEA’s “Becoming a Hawker” Guidebook, the maximum number of cooked food stalls any individual can rent is two.

premises will not be able to switch to operating at hawker centres unless they are open to the idea of franchising their business. In view of the third-party feedback received, licensing restrictions and labour considerations for hawker centres, CCCS considers that the rental of stalls in hawker centres is not in the same market as the rental of stalls in food courts. This is consistent with the position adopted in *NTUC Enterprise/Kopitiam*.

21. In terms of supply-side substitution, CCCS notes that there are seven (7) new hawker centres that are managed by “socially-conscious” operators,²⁹ which are already existing operators of food courts, while the rest of the hawker centres are managed by NEA. This suggests that operators of new hawker centres are able to switch to operate food courts (which all are already doing so); however, it is outside of the mandate of NEA (the main operator of hawker centres in Singapore) to do so. In terms of coffee shop operators, third-party feedback suggested that coffee shop operators could face challenges in seeking to operate food courts as Landlords would not typically consider coffee shop operators when leasing out their food court premises.
22. In *NTUC Enterprise/Kopitiam*, CCCS had previously considered coffee shops and food courts to be part of the same relevant product market for the rental of stalls to food vendors as market feedback did not suggest that coffee shops are not substitutable for food courts. In this case, however, in view of the mixed responses received regarding the substitutability of coffee shops with food courts, CCCS has adopted a more conservative definition of the product market by excluding coffee shops from the relevant product market for the purposes of the assessment.

Food halls

23. Third-party feedback generally did not support Topwin’s submission³⁰ that food vendors will consider renting a stall in food halls. This is due to the more expensive rental fees as well as the higher operation cost required for food vendors. Food halls are also considered to be more suitable for takeaway food items rather than certain hot meals that are best consumed on the spot. CCCS therefore considers that the rental of stalls at food halls is not in the same relevant market as the rental of stalls at food courts.

²⁹ These operators include NTUC Foodfare, Fei Siong Social Enterprise, Timbre+Hawkers, Hawker Management by Koufu and OTMH by Kopitiam.

³⁰ Paragraph 34.23 of Form M1.

24. In view of the above, CCCS concludes that the relevant product market is the rental of stalls to food vendors located within food court premises.

The sale of drinks, fruits, snacks, desserts and hot meals in food court premises to individual consumers

25. CCCS agrees with Topwin's submission that the sale of drinks, fruits, snacks and desserts are generally provided by master lessors to complement their rental businesses.³¹ Hence, CCCS considers it appropriate not to include the sale of drinks, snacks, fruits, and desserts in the relevant product market.
26. CCCS has received mixed third-party feedback in terms of the extent of substitutability of hawker centres and coffee shops to food courts for individual consumers of hot meals. Some third-party feedback suggested that individual consumers consider the purchase of hot meals in coffee shops and hawker centres to be substitutes for that in food courts. This is mainly due to the similar range of food variety offered and price points between these premises. However, some feedback received suggested that the sale of hot meals in hawker centres and coffee shops are not close substitutes as individual consumers of hot meals look for the comfort of dining in air-conditioned premises, as well as a casual and communal dining environment with the same food variety and price points as food courts. A third-party feedback suggested that each of the aforementioned premises attracts a different group of customers, and customers who are willing to pay more tend to go to food courts.
27. In terms of supply-side substitution, CCCS notes that it may not be easy for food vendors operating in hawker centres and coffee shops to enter into the market for the sale of hot meals to individual consumers in food court premises. As food court operators such as Food Republic [X], food vendors that are not already in the food court operators' network are less likely to have timely information and opportunity to enter food court premises. CCCS notes Topwin's submission that prospective food vendors are then assessed and selected to operate in the food court premise(s) based on a variety of factors, including but not limited to [X].³² This is corroborated by third-party feedback which indicated that food court operators tend to select food vendors with certain branding or track record, suggesting that food vendors without a track record and reputation (that could operate in

³¹ Paragraph 20.1 of Form M1.

³² Paragraph 18.4 of Form M1.

coffee shops and hawker centres) could find it difficult to enter and operate in food courts. CCCS also notes that food court operators will have to stick to the proposed stall mix and indicative price range of the food sold in the food court premises which was agreed with the Landlord at the start of the lease. Food court operators will also need to keep Landlords informed of any changes in the stalls or menu. Cumulatively, these factors constrain a food court operator's ability to accept a new food vendor seeking to enter and operate in food court premises.

28. CCCS has not received sufficient evidence from third-parties on the extent that food sold via food halls in retail malls as well as dine-in eateries are substitutable with those on sale in food court premises. In view of the mixed responses received, CCCS considers it appropriate to adopt a more conservative product market for the purposes of our assessment. Therefore, CCCS concludes that the relevant product market is the sale of hot meals to individual consumers in food court premises.

(b) Geographic Market

The rental of stalls to food vendors located within food court premises

29. The majority of third-party feedback is consistent with Topwin's submission that food vendors are generally willing to locate their stalls island-wide, as long as there is strong consumer traffic and competitive rental terms.³³ Third-party feedback generally indicated that location is one of the most important factors for food vendors in choosing where to locate their stalls, as it will determine the consumer traffic as well as the business prospects. Feedback from a majority of the food vendors further indicated that the identity of the food court operator is not a key factor that affects their decision whether to rent a stall in a food court premise and provided examples where they had switched the locations of their stalls between food court premises operated by the Parties as well as other food court operators across Singapore when faced with low consumer traffic and/or higher costs.
30. CCCS notes that while a cautious approach to adopting a narrower geographic definition of 500 metres to 1 kilometre radius was taken in *NTUC Enterprise/Kopitiam*, the decision also recognized that food vendors would consider a wider geographic region. As such, the considerations in *NTUC Enterprise/Kopitiam* are in line with the CCCS's current views that it would be appropriate to consider a wider geographic market for the

³³ Paragraph 19.18 of Form M1.

present case, especially since [X] percent and [X] percent of third-party food vendors operating in all Food Republic and FJM-operated food court premises in Singapore respectively are body corporates.³⁴

31. In view of the feedback received, CCCS considers the geographic market to be Singapore-wide in this case.

The sale of drinks, fruits, snacks, desserts and hot meals in food court premises to individual consumers

32. As CCCS did not receive any third-party feedback suggesting otherwise, CCCS considers it appropriate to define the relevant geographic market to be catchment areas within 500 metres radius from the Parties' premises. This is also consistent with the methodology adopted by CCCS in NTUC Enterprise/Kopitiam in view of the planning norms and survey evidence provided by the Housing Development Board and NEA.

(c) Conclusion on Relevant Markets

33. Based on Topwin's submissions and third-parties' feedback, CCCS assessed that the relevant markets for the competition assessment of the Proposed Transaction are:
 - a. The rental of stalls in food court premises to food vendors within Singapore; and
 - b. The sale of hot meals to individual consumers in food court premises, using catchment areas of 500 metres radius (collectively, "**the relevant markets**").

³⁴ Paragraph 34.20 of Form M1.

VII. Market Structure

(a) Market shares and market concentration

The rental of stalls in food court premises to food vendors within Singapore

34. CCCS notes that the food court operators with the largest market shares are NTUC Enterprise³⁵ and Koufu. The combined market shares of the Parties of [10-20] percent does not cross CCCS's indicative threshold of 40 percent.

The sale of hot meals to individual consumers in food court premises using catchment areas of 500 metres radius

35. CCCS notes the Parties' submission that the Parties operate a very limited number of stalls offering the sale of hot meals to individual consumers within the food court premises in Singapore. Specifically, the Parties operate a total of thirty (30) food stalls offering hot meals in sixteen (16) food court premises in Singapore. Given the low number of stalls directly operated by the Parties, CCCS is of the view that it is not necessary to estimate their market shares for the sale of hot meals in the identified overlapping catchment areas as competition concerns are unlikely to arise.

(b) Barriers to entry and expansion

Entry barriers

36. CCCS did not receive any feedback suggesting the presence of any insurmountable entry barriers for both relevant markets.
37. CCCS notes that there is at least one (1) new food court operator (i.e. Yu Kee Group which entered the market in 2017) that has successfully entered the market and expanded its operations in the past five (5) years.³⁶ In relation to the market for the sale of hot meals to individual consumers in food court premises, third-party feedback suggested that it is easy to set up food stalls in food court premises.

³⁵ NTUC Enterprise operates NTUC Foodfare and Kopitiam.

³⁶ Paragraph 29.1.2 of Form M1.

Expansion barriers

38. CCCS did not receive any feedback suggesting the presence of any insurmountable expansion barriers for the relevant markets. Feedback received and information obtained indicated that existing food court operators looking to enter into locations where the Parties currently operate and/or expand into any location in Singapore are unlikely to face any insurmountable barriers.

Conclusion on barriers to entry and expansion

39. Based on the above, the CCCS considers the barriers to entry and expansion in the relevant markets to be low.

(c) Countervailing Buyer Power

40. CCCS notes that food court operators are incentivised to lease out their stalls quickly given their rental and performance obligations to the Landlords, as well as their ability to secure future food court leases. As noted in *NTUC Enterprise/Kopitiam*, the vibrancy and attractiveness of the premises to individual consumers is in part dependent on the number and type of stalls (e.g., whether they are reputable, cater to local taste and preferences etc.) being operational in the food court premises. This will in turn affect the level of business at the premise and ultimately the profitability of the food court operator. Given that the majority of the food vendors operating within food courts are reputable stalls or chain stall operators or body corporates which have the ability to move to competing food courts, CCCS considers that they would likely be able to exercise some countervailing buyer power post-Transaction.
41. CCCS is of the view that food vendors would generally be able to exercise some degree of countervailing buyer power in the rental of stalls in food court premises post-Transaction, while individual consumers of hot meals would not generally be able to do so.

VIII. Competition Assessment

(a) Non-coordinated effects

The rental of stalls in food court premises to food vendors within Singapore

42. The combined market shares of the merging parties for the rental of stalls to food vendors within food court premises in Singapore is low at [10-20] percent. The merger is unlikely to lead to a significant increase in market power by the merged entity given the low incremental increase in market shares of [0-10] percent. The merger may instead enhance the merged entity's ability to better compete with the other larger food court operators.
43. The barriers to entry to set up food court operations in Singapore, as well as the barriers existing food court operators face in expanding to locations where the Parties currently operate at and/or any other locations in Singapore, are low. CCCS is of the view that the threat of new entry and expansion of existing food court operators will continue to place a competitive constraint on the Parties post-Transaction.
44. CCCS is of the view that there is considerable competition not just between the Parties, but with the other food court operators as well. In addition, CCCS notes that there are other food court operators besides the merging parties that Landlords typically consider when leasing out their food court premises. Landlords indicated that they have in the past considered food court operators such as Koufu, Select Group, NTUC Enterprise and Fei Siong during their selection process. Some Landlords indicated that some of these food court operators would be able to satisfy the requirements of these Landlords post-Transaction.
45. CCCS notes that most food vendors are price-sensitive and profit driven with little loyalty to or preference for any particular food court operator. Third-party feedback suggested that the operator of the food court premise will not affect most food vendors' decision on whether to rent stall spaces in a particular premise as they consider factors such as the attractiveness of a location, and cost of rent and renovation to be more important. Food vendors would switch to alternative competing food court premises or alternative formats of operations should changes in any of these factors adversely affect their profitability. Third-party feedback also confirmed the occurrence of such actual switching behaviours by food vendors during and

after their contract period with food court operators, suggesting that any switching costs involved is unlikely to be an impediment.

46. Food vendors further indicated that there are alternative food court operators that they may consider switching to post-Transaction and it is not difficult for them to switch between different food court operators. Some food vendors are already operating food stalls in the Parties' premises, as well as in food courts operated by other operators concurrently. This price-sensitivity and profit driven characteristic of food vendors and the availability of alternative food court operators would likely constrain the merged entity's ability to exercise its market power post-Transaction.
47. Given the above assessment, CCCS is of the view that non-coordinated effects are unlikely to arise in the market for the rental of stalls in food court premises to food vendors within Singapore.

The sale of hot meals to individual consumers in food court premises using catchment areas of 500 metres radius

48. CCCS has received feedback from individual consumers, who indicated concerns over increases in prices for hot meals to individual consumers in food court premises post-Transaction, with some respondents suggesting the passing on of increased rental prices for food vendors post-Transaction as the reason for such price increases. As set out in paragraph 47, CCCS has assessed that any substantial increase in rental prices to food vendors in food court premises post-Transaction is unlikely, due to the low risk of non-coordinated effects arising from the merger.
49. CCCS is of the view that the Proposed Transaction is unlikely to give rise to non-coordinated effects in the market for the sale of hot meals to individual consumers in food court premises, due to the Parties operating a small number of such stalls within their food court premises.
50. CCCS notes third-party feedback which indicated concerns over the lack of sufficient differentiation in terms of food mix and price points as well as lower food quality offered by the Parties post-Transaction, especially for the catchment area(s) where the Parties are located within the same shopping mall. CCCS is of the view that the concerns expressed by the individual consumers are unlikely to materialise. This is attributed to the emphasis placed by shopping mall operators on the food court operators' ability to differentiate in terms of the concept, food mix and price points for the food

court premises they may operate in the mall. Further, CCCS has found that the shopping mall operators typically have sufficient control over the food court operations of the merged entity should it adversely impact the prices, quality or choices of food available to individual consumers as they seek to attract more customer footfall to their malls.

(b) Coordinated effects

The rental of stalls in food court premises to food vendors within Singapore

51. CCCS is of the view that the characteristics of the market do not facilitate coordination between operators of food court premises in Singapore post-Transaction for the following reasons:

- a. there are at least seven (7) other food court operators operating food court premises at different locations in Singapore.³⁷ The difference in cost structure and other requirements faced by the food court operators at different locations make it difficult to coordinate their commercial behavior in the market;
- b. there is a low degree of transparency on pricing which would make it difficult for these operators to monitor one another; and
- c. barriers to entry and expansion are low, which implies that new food court operators may disrupt coordination between the incumbents and render any coordination unsustainable.

The sale of hot meals to individual consumers in food court premises using catchment areas of 500 metres radius

52. CCCS is of the view that the Proposed Transaction will not result in coordinated effects as the characteristics of the market do not facilitate coordination between food stalls in food court premises within each of the 500 metre radius catchment areas post-Transaction for the following reasons:

- a. the large number of food vendors in food court premises within the respective catchment areas make it difficult to coordinate their commercial behavior in the market;

³⁷ Paragraph 24.1 of Form M1. These seven (7) food court operators include Koufu, NTUC Enterprise, Food loft, Select Group, Yu Kee, Fei Siong and Kimly.

- b. the difference in cost structure faced by the food vendors selling different hot meal items and differing ability to negotiate on rent make it difficult for them to coordinate their commercial behavior; and
- c. barriers to entry and expansion are low, which implies that potential entrants may disrupt any coordination between the food vendors and render such coordination unsustainable.

53. In view of the above, CCCS considers that the Proposed Transaction will not result in coordinated effects.

(c) Conclusion on competition assessment

54. 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.

IX. Efficiencies

55. 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 Topwin.

X. Ancillary Restrictions

56. Topwin has submitted that the Non-Compete Restriction under [X] and the Non-Solicitation Restriction under [X] are ancillary restrictions to the Proposed Transaction,³⁸ and may, *prima facie*, be perceived to infringe the section 34 prohibition as it restricts the ability of FJH (as the Seller under the SPA) to:³⁹

- a. [X];
- b. [X]; and

³⁸ Paragraphs 43.1 and 43.2 of Form M1.

³⁹ Paragraph 43.7 of Form M1.

- c. [X].
57. [X]⁴⁰ [X],⁴¹ [X]:
- a. [X],⁴²
 - b. [X]; and
 - c. [X]⁴³ [X].
58. [X]:
- a. [X];⁴⁴
 - b. [X]:
 - (i) [X];
 - (ii) [X]; or
 - (iii) [X];
 - c. [X];
 - d. [X].
59. CCCS is of the view that, insofar as it relates to Singapore, the Non-Compete Restriction is directly related to the Proposed Transaction as it serves to [X]. This would in turn allow Topwin to obtain the full value of the assets acquired pursuant to the Proposed Transaction. The Non-Compete Restriction is also not overly restrictive of competition in Singapore as its scope relates [X]. CCCS is of the view that the duration of [X] for the current Non-Compete Restriction is reasonable and properly limited.
60. In relation to the Non-Solicitation Restriction, CCCS is likewise of the view that it is directly related to the Proposed Transaction as it serves to preserve

⁴⁰ [X].

⁴¹ [X].

⁴² [X].

⁴³ [X].

⁴⁴ [X].

and protect the value of the human resource assets acquired by Topwin pursuant to the Proposed Transaction. CCCS is of the view that the Non-Solicitation Restriction is not overly restrictive of competition and the duration of [X] for the current Non-Solicitation Restriction is reasonable and properly limited.

61. CCCS concludes that the Non-Compete Restriction and the Non-Solicitation Restriction constitute ancillary restraints which benefit from the Ancillary Restriction Exclusion under the Act, insofar as they relate to Singapore.

XI. Conclusion

62. 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 (1) year from the date of CCCS's decision.



Sia Aik Kor
Chief Executive
Competition and Consumer Commission of Singapore

ANNEX A

List of food courts operated by BT in Singapore

S/N	Outlet	Address of outlet
1	Food Republic @ 313 Somerset	Level 5, 313@Somerset 313 Orchard Road Singapore 238895
2	Food Republic @ Capitol Piazza	B1-20/27 13 Stamford Road Singapore 178905
3	Food Republic @ Causeway Point	#04-01/04, Causeway Point 1 Woodlands Square Singapore 738099
4	Food Republic @ BreadTalk IHQ	#01-06/07/08 30 Tai Seng Street Singapore 534013
5	Food Republic @ City Square Mall	180 Kitchener Road #04-31, Singapore 208539
6	Food Republic @ Manulife Centre	51 Bras Basah Road, #01-03 Singapore 189554
7	Food Republic @ Serangoon Nex	#B2-63 to 66, nex @ Serangoon 23 Serangoon Central Singapore 556083
8	Food Republic @ Parkway Parade	#B1-85 to 87 and #B1-112 to 146, Parkway Parade 80 Marine Parade Road Singapore 449269
9	Food Republic @ Shaw House	#B1-02 350 Orchard Road Singapore 238868
10	Food Republic @ Suntec City	#B1-115 to 120, Suntec City 3 Temasek Boulevard Singapore 038983

S/N	Outlet	Address of outlet
11	Food Republic @ VivoCity	Level 3, VivoCity (next to Sentosa Express Monorail) 1 Harbour Front Walk Singapore 098585
12	Food Republic @ Westgate	#B1-28/29 3 Gateway Drive Singapore 608532
13	Food Republic @ Wisma Atria	Level 4, 435 Orchard Rd Singapore 238877
14	Food Opera @ ION Orchard	#B4-03/04 Ion Orchard 2 Orchard Turn Singapore 238801

List of stalls directly operated by BT in food court premises in Singapore

S/N	Item sold	Name of stall	Format of stall	Food Republic-operated outlet
1	[X]	[X]	[X]	[X]
2	[X]	[X]	[X]	[X]
3	[X]	[X]	[X]	[X]
4	[X]	[X]	[X]	[X]
5	[X]	[X]	[X]	[X]
6	[X]	[X]	[X]	[X]

7	[✕]	[✕]	[✕]	[✕]
8	[✕]	[✕]	[✕]	[✕]
9	[✕]	[✕]	[✕]	[✕]
10	[✕]	[✕]	[✕]	[✕]
11	[✕]	[✕]	[✕]	[✕]
12	[✕]	[✕]	[✕]	[✕]
13	[✕]	[✕]	[✕]	[✕]
14	[✕]	[✕]	[✕]	[✕]
15	[✕]	[✕]	[✕]	[✕]
16	[✕]	[✕]	[✕]	[✕]

17	[✂]	[✂]	[✂]	[✂]
18	[✂]	[✂]	[✂]	[✂]
19	[✂]	[✂]	[✂]	[✂]
20	[✂]	[✂]	[✂]	[✂]
21	[✂]	[✂]	[✂]	[✂]
22	[✂]	[✂]	[✂]	[✂]
23	[✂]	[✂]	[✂]	[✂]
24	[✂]	[✂]	[✂]	[✂]
25	[✂]	[✂]	[✂]	[✂]

26	[✕]	[✕]	[✕]	[✕]
27	[✕]	[✕]	[✕]	[✕]
28	[✕]	[✕]	[✕]	[✕]
29	[✕]	[✕]	[✕]	[✕]
30	[✕]	[✕]	[✕]	[✕]
31	[✕]	[✕]	[✕]	[✕]
32	[✕]	[✕]	[✕]	[✕]
33	[✕]	[✕]	[✕]	[✕]
34	[✕]	[✕]	[✕]	[✕]

35	[✕]	[✕]	[✕]	[✕]
36	[✕]	[✕]	[✕]	[✕]
37	[✕]	[✕]	[✕]	[✕]

List of food courts operated by FJM in Singapore

S/N	Outlet	Address of outlet
1	Food Junction @ Bugis	200 Victoria Street #03-30 Singapore 188021
2	The Food Market @ Century Square	Century Square #03-19, 2 Tampines Central 5, Singapore 529509
3	Food Junction @ Great World City	1 Kim Seng Promenade, #03-116 Great World City, Singapore 237994
4	Food Junction @ HarbourFront Centre	1 Maritime Square, #03-01/04 Harbourfront Centre, Singapore 099253
5	Food Junction @ Junction 8	9 Bishan Place, #04-01, Singapore 579837
6	Food Junction @ Lot One	21 Choa Chu Kang Avenue 4 #04-15 Singapore 689812
7	Food Junction @ Nex	23 Serangoon Central #04-36/37 Singapore 556083
8	Food Junction @ One Raffles Place	1 Raffles Place #05-07 Singapore 048616
9	The Food Place @ Raffles City	252 North Bridge Road #03-15/16/17 Raffles City Singapore 179103
10	Food Junction @ Rivervale Mall	#01-01/02/03 11 Rivervale Crescent Rivervale Mall Singapore 545082
11	Food Junction @ United Square	101 Thomson Rd, #B1-02/57/59, #B156M/N & #B1-56P & B1-56Qm United Square, Singapore 307591
12	Five Spice @ Jewel Changi	78 Airport Boulevard, #B2-238/239/240, Jewel Changi Airport, Singapore 819666

List of stalls directly operated by FJM in food court premises in Singapore

S/N	Item sold	Name of stall	Format of stall	FJM-operated outlet
1	[X]	[X]	[X]	[X]
2	[X]	[X]	[X]	[X]
3	[X]	[X]	[X]	[X]
4	[X]	[X]	[X]	[X]
5	[X]	[X]	[X]	[X]
6	[X]	[X]	[X]	[X]
7	[X]	[X]	[X]	[X]

8	[✂]	[✂]	[✂]	[✂]
9	[✂]	[✂]	[✂]	[✂]
10	[✂]	[✂]	[✂]	[✂]
11	[✂]	[✂]	[✂]	[✂]
12	[✂]	[✂]	[✂]	[✂]
13	[✂]	[✂]	[✂]	[✂]
14	[✂]	[✂]	[✂]	[✂]
15	[✂]	[✂]	[✂]	[✂]
16	[✂]	[✂]	[✂]	[✂]
17	[✂]	[✂]	[✂]	[✂]
18	[✂]	[✂]	[✂]	[✂]
19	[✂]	[✂]	[✂]	[✂]

20	[✕]	[✕]	[✕]	[✕]
21	[✕]	[✕]	[✕]	[✕]