

**MEMORANDUM OF COOPERATION
BETWEEN THE COMPETITION COMMISSION OF SINGAPORE
AND THE FAIR TRADE COMMISSION OF JAPAN**

**Paragraph 1
Purpose**

1.1 This Memorandum of Cooperation (“MoC”) is to contribute to the effective enforcement of the competition laws in Singapore and Japan through the establishment of a framework for cooperation between the Competition Commission of Singapore and the Fair Trade Commission of Japan (hereinafter collectively referred to as “the competition authorities”, and individually referred to as “the competition authority”).

1.2 The competition authorities will cooperate with and provide assistance to each other, to the extent consistent with the laws and regulations in force in their respective countries, their respective important interests and reasonably available resources. Each competition authority will respect the other competition authority’s autonomy in the performance of its functions and discharge of its duties pursuant to its laws and regulations. Taking note of Article 104 of the Agreement between the Republic of Singapore and Japan for a New-Age Economic Partnership (JSEPA), the competition authorities recognise the importance of strengthening cooperation in the field of controlling anti-competitive activities.

**Paragraph 2
Definitions**

For the purposes of this MoC:

- (a) the term “competition laws” mean:
 - (i) for Japan, the Law Concerning Prohibition of Private Monopoly and Maintenance of Fair Trade (Law No. 54, 1947) (hereinafter referred to as “the Antimonopoly Law”) and its implementing regulations as well as any amendments thereto; and
 - (ii) for Singapore, the Competition Act (Chapter 50B) and its implementing regulations as well as any amendments thereto;
- (b) the term “enforcement activities” means any proceeding or investigation conducted by a competition authority in relation to the application of the competition law of its country to proscribe anti-competitive activities ; and
- (c) the term “anti-competitive activities” means any conduct or transaction that may be subject to penalties or relief under the competition laws of the respective countries.

**Paragraph 3
Notification**

3.1 Each competition authority will notify the other competition authority with regard to its enforcement activities that the notifying competition authority considers may affect the important interests of the other competition authority.

3.2 Provided that it is not contrary to the laws and regulations of the country of the notifying competition authority and does not adversely affect any enforcement activity being carried out by

the notifying competition authority, notification pursuant to subparagraph 3.1 will be given as promptly as possible when the notifying competition authority becomes aware that its enforcement activities may affect the important interests of the other competition authority.

Paragraph 4 Exchange of Information

Each competition authority will, upon request, provide the other competition authority with information that is relevant to the enforcement activities of the other competition authority to the extent consistent with the laws and regulations of the country of the providing competition authority and the important interests and reasonably available resources of the providing competition authority.

Paragraph 5 Confidentiality

5.1 Each competition authority will, in accordance with the laws and regulations of its country, maintain the confidentiality of any information provided by the other competition authority under this MoC.

5.2 Information, other than publicly available information, provided by a notifying competition authority to the other competition authority under this MoC will be used by the receiving competition authority only for the purpose of the effective enforcement of the competition laws and will not be communicated by the receiving competition authority to other authorities or a third party.

5.3 Notwithstanding any other paragraphs of this MoC, neither competition authority is required to provide information to the other competition authority if it is prohibited from providing the information by the laws and regulations of its country or it finds providing the information incompatible with its important interests.

5.4 Information, other than publicly available information, provided by a competition authority to the other competition authority under this MoC will not be used by the other competition authority in criminal proceedings carried out by a court or a judge.

Paragraph 6 Coordination of Enforcement Activities

6.1 Where the competition authorities are pursuing enforcement activities with regard to the same matter or matters that are related to each other, the competition authorities will consider coordination of their enforcement activities.

6.2 Each competition authority may at any time, subject to appropriate notification to the other competition authority, limit or terminate the coordination of enforcement activities and pursue its enforcement activities independently.

Paragraph 7 Cooperation Regarding Anti-competitive Activities in the Country of a Competition Authority that Adversely Affect the Interests of the Other Competition Authority

7.1 If a competition authority believes that anti-competitive activities carried out in the country of the other competition authority adversely affect its important interests, that competition authority, taking into account the importance of avoiding conflicts resulting from its enforcement activities with regard to such anti-competitive activities and taking into account that the other competition authority may be in a position to conduct more effective enforcement activities with regard to such anti-competitive activities, may request that the other competition authority initiate appropriate enforcement activities.

7.2 The request made under subparagraph 7.1 should be as specific as possible about the nature of the anti-competitive activities and their effect on the important interests of the requesting competition authority, and should include an offer of such further information and other cooperation as the requesting competition authority is able to provide.

7.3 The requested competition authority will carefully consider whether to initiate enforcement activities, or whether to expand ongoing enforcement activities, with respect to the anti-competitive activities identified in the request made under subparagraph 7.1. The requested competition authority will inform the requesting competition authority of its decision as soon as practically possible. If enforcement activities are initiated, the requested competition authority will inform the requesting competition authority of their outcome and, to the extent possible, of significant interim developments.

7.4 Nothing in this paragraph limits the discretion of the requested competition authority under the competition laws of its country and its enforcement policies to determine whether to undertake enforcement activities with respect to the anti-competitive activities identified in the request, or precludes the requesting competition authority from withdrawing its request.

Paragraph 8 Communication

8.1 The competition authorities will work together in the following areas, subject to the reasonably available resources of each competition authority:

- (a) keeping each other informed of significant developments in competition policy and enforcement of the competition laws in their respective countries;
- (b) exchanging experiences on enforcement of the competition laws, when appropriate;
- (c) seeking information from each other regarding matters of competition policy and enforcement of the competition laws in their respective countries; and
- (d) discussing developments relating to bilateral or multilateral fora that may be relevant to the cooperative relationship between the competition authorities.

8.2 The competition authorities will appoint the following liaisons for the purpose of facilitating cooperation based on this MoC:

The Competition Commission of Singapore: International & Strategic Planning Division.

The Fair Trade Commission of Japan: International Affairs Division, Secretariat, General Secretariat.

8.3 Communication between the competition authorities may be carried out by telephone, electronic mail, videoconference, meeting or other means, as appropriate.

Paragraph 9 Technical Cooperation

The competition authorities recognise that it is in their common interest to work together in technical cooperation activities related to strengthening of competition policy and implementation of the competition laws of both countries. Such technical cooperation activities may include, within the reasonably available resources of the competition authorities, the following:

- (a) exchange of personnel of the competition authorities for training purposes;
- (b) participation of personnel of the competition authorities as lecturers or consultants at training courses on the implementation of competition laws and policy organised or sponsored by either or both competition authorities; and
- (c) any other form of technical cooperation as the competition authorities will jointly decide.

Paragraph 10 Others

10.1 The cooperation under this MoC will commence on the date of signature.

10.2 Either competition authority may terminate the cooperation under this MoC upon giving thirty (30) days written notice to the other competition authority.

10.3 This MoC may be modified with mutual written consent of the competition authorities.

10.4 Nothing in this MoC is intended to create legally binding rights or obligations.

10.5 The competition authorities will consult with each other regarding any issues concerning this MoC.

10.6 Supplementary arrangements to implement this MoC may be made with the mutual written consent of the competition authorities.


Signed on this 22nd day of June, 2017, in two copies in the English language.

For the Competition Commission of Singapore

For the Fair Trade Commission of Japan



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Mr. Toh Han Li
Commissioner and Chief Executive
Competition Commission of Singapore



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Mr. Kazuyuki Sugimoto
Chairman
Fair Trade Commission of Japan