



## **MEDIA RELEASE**

**11 December 2014**

### **CCS Fines 10 Freight Forwarders for Price Fixing**

1. The Competition Commission of Singapore (“CCS”) has issued an Infringement Decision (“ID”) against 11 freight forwarders and their Singapore subsidiaries (collectively, the “Parties”) for infringing section 34 of the Competition Act (Cap.50B) (the “Act”) by collectively fixing certain fees and surcharges, and exchanging price and customer information in relation to the provision of air freight forwarding services for shipments from Japan to Singapore. Both the Japan and related Singapore companies were found to be jointly and severally liable for the infringement. Financial penalties have been imposed on 10 out of the 11 freight forwarding companies. One company escaped being penalised as it qualified for full immunity under CCS’s leniency programme.
2. This is CCS’s second international cartel case involving foreign-registered companies and their Singapore subsidiaries or affiliates.<sup>1</sup> The financial penalties amount to S\$7,150,852. Please refer to the attached Appendix for a list of the Parties.
3. Mr. Toh Han Li, Chief Executive, CCS, said ‘Price fixing among competitors (thus forming a cartel) is considered one of the most harmful types of anti-competitive conduct. It distorts the terms of trade between the cartellists and their customers, with the latter not being able to enjoy competitively determined rates. As an open economy, Singapore businesses are vulnerable to such international cartels.’

#### Case Details

4. Investigations in this case commenced in December 2011 after CCS received an application for immunity from DGF under CCS’s leniency programme. The infringing

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<sup>1</sup> CCS’s first international cartel case concerns anti-competitive agreements and the unlawful exchange of information by ball bearing manufacturers, see <http://www.ccs.gov.sg/content/ccs/en/Media-and-Publications/Media-Releases/ccs-imposes-penalties-on-ball-bearings-manufacturers-involved-in.html>

conduct is in relation to the provision of air freight forwarding services (both on a pre-paid and collect basis) from Japan to Singapore (“the Conduct”).

5. The anti-competitive agreements were in relation to:
  - a. the Japanese Security Surcharge (“JSS”) and the Japanese Explosives Examination Fee (“JEEF”) (collectively “Security Charges”); and
  - b. the Japanese Fuel Surcharge (“JFS”).
6. Discussions of these fees and surcharges took place in meetings of the Japan Aircargo Forwarders Association (“Jafa”) over the period November 2004 to November 2007 for the Security Charges; and September 2002 to November 2007 for the JFS. The Parties to both infringements are the same.
7. CCS found that the Parties exchanged their views on the Security Charges and the JFS; decided collectively what action they would take; fixed the prices they would charge customers and discussed the implementation of the Security Charges and the JFS, including how successful they were in collecting these fees and surcharges from customers.

#### Security Charges

8. Discussions on the Security Charges began between the Parties in November 2004 in response to new security requirements mandated by the Japanese Ministry of Land, Infrastructure and Transport (“MLIT”) from 1 April 2006. Under the new security requirements, all cargo freight was subject to a security inspection and all cargo from “unknown shippers” was additionally required to undergo an explosives examination inspection.
9. The Parties discussed in the Jafa meetings the costs of the required security measures, how much they would charge customers and when they would introduce the charges. These discussions on Security Charges culminated in a consensus on 20 February 2006 to charge a minimum price for the JSS at 300 JPY (approximately S\$3.31) and JEEF at 1,500 JPY (approximately S\$16.57) per house airway bill on all outgoing cargo from Japan, including the Japan to Singapore route. There is evidence pointing to a significant mark-up in some instances. In the following meetings, the Parties discussed how much they were actually charging customers and how successful they were in collecting the Security Charges.

### Japanese Fuel Surcharge

10. Following a rise in fuel prices, airlines started levying on freight forwarders a fuel surcharge. Given this additional cost, the Parties began discussing at the Jafa meetings, in particular from September 2002, how to react to this additional cost. It was agreed at those meetings that the Parties would not use the fuel surcharge as a point of competition between them and that they would pass on the costs of the surcharge at 100% to customers.
11. After collectively deciding to pass on the costs to customers and not use the fuel surcharge as a means of competition, the Parties met regularly to discuss their success in passing on these costs to customers. To this end, they exchanged information about their collection ratios (i.e. the proportion of their fuel surcharge costs that they were able to pass on to customers). The Parties sought to maintain a high collection ratio and encouragement was given in Jafa meetings to achieve this. The discussions between the Parties also concerned identifying customers that they were unable to collect the JFS from; and at the meetings, particular freight forwarders were assigned to negotiate with these customers.

### Impact and Scope of Infringement

12. CCS's findings relate to anti-competitive agreements and/or concerted practices involving the Japan to Singapore route. CCS has assessed that the Conduct was carried out by both the Japan and related Singapore companies, acting as a single economic entity, whereby the Security Charges and the JFS were charged to customers for air freight forwarding services for shipments from Japan to Singapore.
13. CCS found through its investigations that discussions on the JFS and Security Charges started in September 2002 and November 2004 respectively. The infringement however is calculated as starting from 1 January 2006 onwards after the section 34 prohibition of the Act in Singapore came into effect. The infringement ended on 12 November 2007.

### Parties' Representations

14. On 1 April 2014, CCS issued a Proposed Infringement Decision to the Parties and CCS received written representations from the Parties. The issues raised in the Parties' representations relate mainly to how CCS calculated the penalties for certain Parties. The representations of Parties to CCS are set out and addressed in the Infringement Decision.

Financial Penalties

15. In imposing financial penalties for the Parties' infringements of the section 34 prohibition, CCS took into account the nature of the infringement and the circumstances under which the infringement was committed, aggravating and mitigating circumstances (including whether the Parties had co-operated with CCS), whether the Parties had applied for leniency, as well as representations made to CCS by the Parties. Five of the Parties (DHL Global Forwarding, Hankyu Hanshin, Kintetsu World Express, NNR and Vantec) received a discount for leniency. The financial penalties are calculated on the basis of each Party's turnover affected by the anti-competitive conduct.

16. CCS has imposed the following financial penalties on the Parties:

| <b>Party</b>           | <b>Financial Penalty</b> |
|------------------------|--------------------------|
| DHL Global Forwarding  | \$0                      |
| Hankyu Hanshin         | \$662,142                |
| "K"Line Logistics      | \$828,200                |
| Kintetsu World Express | \$771,497                |
| MOL Logistics          | \$77,887                 |
| Nippon Express         | \$2,072,386              |
| NNR                    | \$330,551                |
| Nissin                 | \$64,283                 |
| Vantec                 | \$154,249                |
| Yamato                 | \$153,662                |
| Yusen                  | \$2,035,995              |

|              |                    |
|--------------|--------------------|
| <b>Total</b> | <b>\$7,150,852</b> |
|--------------|--------------------|

17. Further information on the investigation, analysis of the case and the basis of calculation of the financial penalty imposed on the Parties are set out in the Infringement Decision and the document is on CCS's website [www.ccs.gov.sg](http://www.ccs.gov.sg).

#### CCS Leniency Programme

18. CCS's Leniency Programme allows an infringing business to apply for a leniency marker, and thereafter collect the information or evidence required to support the leniency application for submission to CCS. If a business meets the relevant criteria and if it is the first to notify CCS then it will be entitled to immunity from financial penalties (if CCS has not commenced investigations yet) or a reduction of up to 100% of the financial penalties (if CCS has already commenced investigation). For a subsequent leniency applicant, which co-operated with CCS and provided evidence of the cartel activity, it may be entitled to a reduction of up to 50% of the financial penalties.

More details on the Leniency Programme can be found at <http://bit.ly/CCSleniency>.

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#### **About The Competition Commission of Singapore (CCS)**

CCS is a statutory board established under the Competition Act on 1 January 2005 to administer and enforce the Act. It comes under the purview of the Ministry of Trade and Industry. The Act empowers CCS to investigate alleged anti-competitive activities, determine if such activities infringe the Act and impose suitable remedies, directions and financial penalties.

For more information, please visit [www.ccs.gov.sg](http://www.ccs.gov.sg).

**For media clarification, please contact**

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## Appendix

| Party                  | Companies  |
|------------------------|--|
| DHL Global Forwarding  | Deutsche Post A.G., DHL Global Forwarding Japan K.K., DHL Global Forwarding Management (Asia Pacific) Pte. Ltd. and DHL Global Forwarding (Singapore) Pte. Ltd |
| Hankyu Hanshin         | Hankyu Hanshin Express Co., Ltd. and Hankyu Hanshin Express (Singapore) Pte. Ltd.  |
| “K”Line Logistics      | “K” Line Logistics, Ltd. and “K” Line Logistics (Singapore) Pte. Ltd.  |
| Kintetsu World Express | Kintetsu World Express, Inc. and KWE-Kintetsu World Express (S) Pte. Ltd.  |
| MOL Logistics          | MOL Logistics (Japan) Co., Ltd. and MOL Logistics (Singapore) Pte. Ltd.  |
| Nippon Express         | Nippon Express Co., Ltd. and Nippon Express (Singapore) Pte. Ltd.  |
| NNR                    | Nishi-Nippon Railroad Co., Ltd. and NNR Global Logistics (S) Pte. Ltd.   |
| Nissin                 | Nissin Corporation and Nissin Transport (S) Pte. Ltd.  |
| Vantec                 | Vantec Corporation and Vantec World Transport (S) Pte. Ltd.  |
| Yamato                 | Yamato Holdings Co., Ltd. and Yamato Global Logistics Japan Co., Ltd. and Yamato Asia Pte. Ltd   |

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| Yusen | Yusen Logistics Co., Ltd. and Yusen Logistics (Singapore) Pte. Ltd. |
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