



## MEDIA RELEASE

20 July 2020

### **CCCS Issues Guidance Note on Collaborations between Competitors in Response to the COVID-19 Pandemic**

The Competition and Consumer Commission of Singapore (“**CCCS**”) has issued a guidance note to provide businesses with more clarity on collaborations between competitors in relation to the supply of essential goods or services in Singapore (the “**COVID-19 Guidance Note**”).

2. The disruption arising from the COVID-19 pandemic may require companies to temporarily collaborate to sustain or improve the supply of essential goods or services. Such collaborations may need to be put in place quickly during this period. Under normal circumstances, such collaborations may require further assessment for net economic benefits.

3. Given the exceptional nature of the COVID-19 pandemic, for a temporary period, CCCS will assume that collaborations that sustain or improve the supply of essential goods or services<sup>1</sup> in Singapore, which are limited in scope and time as set out in the COVID-19 Guidance Note, and which do not involve price-fixing, bid-rigging, market sharing or output limitation, are likely to generate net economic benefits (“**NEB**”) and therefore, are unlikely to infringe the Competition Act (Cap. 50B) (the “**Act**”).<sup>2</sup> CCCS will generally not investigate such collaborations.

4. An example of a collaboration that can fall under the COVID-19 Guidance Note would be where businesses agree to share production lines or inputs to increase total production of testing kits or its components for the purposes of addressing the COVID-19 pandemic.

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<sup>1</sup> CCCS will refer to the list of essential goods and services annexed to the COVID-19 Guidance Note in assessing whether a collaboration relates to essential goods or services. This list is based on the list of essential goods and services maintained by the Ministry of Trade and Industry on the website [covid.gobusiness.gov.sg](https://covid.gobusiness.gov.sg) until 1 June 2020.

<sup>2</sup> Section 34 of the Act, which prohibits anti-competitive agreements between competitors, does not apply to agreements that have net economic benefits. Such agreements should contribute to improving production or distribution, or promote technical or economic progress, but should not result in a possible elimination of competition in the market. The agreement should also not include any restrictions that are not critical to achieve the benefits resulting from the agreement.

5. The COVID-19 Guidance Note applies to such collaborations put in place from 1 February 2020, and which will expire by 31 July 2021. For collaborations that only end after the COVID-19 Guidance Note expires, CCCS will evaluate them using the criteria applicable under normal circumstances.<sup>3</sup>

6. Agreements (including collaborations) that satisfy the NEB criteria<sup>4</sup> applicable in normal circumstances are already excluded from section 34 of the Act and consequently, do not need to come under this COVID-19 Guidance Note. Similarly, agreements entered into with the Singapore Government or any statutory body, or agreements entered into on their behalf, are already excluded under section 33(4) of the Act.<sup>5</sup>

7. Businesses are encouraged to perform their own assessment first to determine whether their collaboration falls within the framework set out in this COVID-19 Guidance Note. Businesses that wish to undertake collaboration on essential goods or services but have queries about the framework in this COVID-19 Guidance Note may contact CCCS for clarification at [cccs\\_feedback@cccs.gov.sg](mailto:cccs_feedback@cccs.gov.sg). The option of notifying CCCS for guidance or a decision on the application of the Act to an agreement remains available.

8. Businesses are cautioned against taking advantage of the COVID-19 pandemic as a cover to engage in anti-competitive activities that do not generate net economic benefit. CCCS retains the discretion to commence investigations in such cases.

9. More information on the **COVID-19 Guidance Note** can be accessed and downloaded from the CCCS website at [www.cccs.gov.sg](http://www.cccs.gov.sg) under the section "[Competition Act and Guidelines](#)".

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<sup>3</sup> For instance, if a collaboration with a competitor for the supply of an essential good or service commenced in February 2020, and ends after July 2021 (e.g. September 2021), the collaboration should be evaluated under the criteria applicable in normal circumstances for its entire duration, i.e., whether the collaboration raises competition concerns and if so, whether it fulfils NEB criteria applicable in normal circumstances. If businesses are concerned that a collaboration (that commenced during the period between February 2020 and July 2021 but ends after July 2021) may raise competition issues, businesses may consider reaching out to CCCS at an early stage: please refer to the [CCCS Guidelines on Filing Notifications for Guidance or Decision with respect to the Section 34 or Section 47 Prohibition 2016](#).

<sup>4</sup> Paragraph 9 of Third Schedule to the Act.

<sup>5</sup> Section 33(4) of the Act provides that "*Nothing in this Part shall apply to any activity carried on by, any agreement entered into or any conduct on the part of – (a) the Government; (b) any statutory body; or (c) any person acting on behalf of the Government or that statutory body, as the case may be, in relation to that activity, agreement or conduct.*"

## **About the Competition and Consumer Commission of Singapore (CCCS)**

The Competition and Consumer Commission of Singapore (“CCCS”) is a statutory board of the Ministry of Trade and Industry. CCCS administers and enforces the Competition Act (Cap. 50B) which empowers CCCS to investigate and adjudicate anti-competitive activities, issue directions to stop and/or prevent anti-competitive activities and impose financial penalties. CCCS is also the administering agency of the Consumer Protection (Fair Trading) Act (Cap. 52A) which protects consumers against unfair trade practices in Singapore. Our mission is to make markets work well to create opportunities and choices for business and consumers in Singapore.

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

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