



MEDIA RELEASE

29 October 2018

CCCS Raises Competition Concerns on Private Clinical Laboratories Merger

1. The Competition and Consumer Commission of Singapore (“**CCCS**”) has completed its Phase 1 review¹ of the acquisition of Innovative Diagnostics Private Limited (“**Innovative**”) and Quest Laboratories Pte Ltd (“**Quest**”) by Pathology Asia Holdings Pte. Ltd. (“**PAH**”), through its subsidiaries (collectively, the “**Parties**”) and the intended integration of the businesses of Innovative and Quest (the “**Transaction**”). PAH is part of TPG, a leading global private investment firm founded in 1992.

2. On 7 September 2018, CCCS received an application from PAH for a decision on whether the Transaction infringes section 54 of the Competition Act (Cap. 50B), which prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition within any market in Singapore.² Innovative and Quest overlap in the provision of in-vitro diagnostic (“**IVD**”) tests in Singapore, which are tests done on samples such as blood or tissue that have been taken from the human body.³

3. CCCS has raised competition concerns with PAH on the Transaction, based on information furnished by PAH and third-party feedback from customers⁴ and other suppliers. Innovative and Quest, being two major private independent clinical laboratories for the provision of IVD tests or clinical laboratory services⁵ by private laboratories in Singapore, are generally seen as the closest competitors to each other pre-Transaction.

4. Third-party feedback revealed concerns about the extent to which alternative

¹ A Phase 1 review entails a quick review and allows merger situations which do not raise competition concerns under the section 54 prohibition to proceed. For more information on what a Phase 1 review entails, please refer to **Annex 1**.

² For more information on the Transaction, please refer to the media release dated 11 September 2018 at www.cccs.gov.sg.

³ According to PAH, IVD tests can detect diseases or other conditions, and can be used to monitor a person’s overall health to help cure, treat, or prevent diseases. IVD tests may also be used in precision medicine to identify patients who are likely to benefit from specific treatments or therapies.

⁴ The types of customers whom the Parties generally serve include general practitioners, clinics, medical centres, hospitals, dialysis centres, not-for-profit organisations and third-party payers.

⁵ According to PAH, “clinical laboratory services” is wider than “IVD tests” and includes the performance of IVD tests, along with other ancillary services such as pre and post analytical services like phlebotomy, the collection of samples, delivery of test reports and delivery of consumables. The analytical services provided by laboratories include analysing patient samples, performing quality control checks, participating in external quality control programs, attaining international quality accreditation standards etc.

suppliers to the Parties, e.g. private hospital clinical laboratories, are able to exert sufficient competitive constraint on the merged entity. This is given that private hospital clinical laboratories may primarily focus on serving their patients' laboratory testing requirements, and access to their services by third parties, and the capacity to which they can provide these services to third parties may have certain limitations. In respect of other private independent clinical laboratories, concerns have been raised that some of these laboratories may not meet certain needs of customers as they supply a less comprehensive range of IVD tests than the Parties, and, as such, may not present as suitable alternatives. Third-party feedback also indicates that public hospital clinical laboratories primarily focus on serving the public healthcare sector's laboratory testing requirements. In view of these concerns, CCCS will need to consider in more detail the effect of the Transaction in a Phase 2 assessment.

5. At this stage, the Parties may offer commitments to address the potential competition concerns that may arise as a result of the Transaction, or the merger will proceed to a detailed Phase 2 review upon CCCS's receipt of the relevant documents from PAH. Commitments may also be offered at any time during a Phase 2 review. For more information on the merger review process in Singapore, please refer to **Annex 1**.

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About The Competition and Consumer Commission of Singapore

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) or CPFTA 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.

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Annex 1

About the Section 54 Prohibition under the Competition Act & Merger Procedures

Section 54 of the Act prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition in Singapore.

CCCS is generally of the view that competition concerns are unlikely to arise in a merger situation unless:

- The merged entity has/will have a market share of 40% or more; or
- The merged entity has/will have a market share of between 20% to 40% and the post-merger combined market share of the three largest firms is 70% or more.

Merging entities are not required to notify CCCS of their merger but they should conduct a self-assessment to ascertain if a notification to CCCS is necessary. If they are concerned that the merger has infringed, or is likely to infringe, the Act, they should notify their merger to CCCS. In such cases, CCCS will assess the effect of the merger on competition and decide if the merger has resulted, or is likely to result, in a substantial lessening of competition (“**SLC**”) in Singapore.

Separately, CCCS has the ability to conduct an investigation into an un-notified merger if there are reasonable grounds for suspecting that the merger infringes section 54 of the Act. In the event CCCS finds that a merger situation has resulted or is expected to result in an SLC, CCCS has powers to give directions to remedy the SLC. For example, CCCS can require the merger to be unwound or modified to address or prevent the SLC, as the case may be. CCCS may also consider issuing interim measures prior to the final determination of the investigation.

Phase 1 and Phase 2 Merger Review

A Phase 1 review entails a quick review and allows merger situations which do not raise competition concerns under the section 54 prohibition to proceed. CCCS expects to complete a Phase 1 review within 30 business days. By the end of this period, CCCS will determine whether to issue a favourable decision and allow the merger situation to proceed. If CCCS is unable, at the end of the 30-day period, to conclude that the merger situation will not result in a substantial lessening of competition, CCCS will inform the merger parties and the merger parties may file Form M2. Upon receipt of Form M2, CCCS will proceed to a Phase 2 review.

A Phase 2 review entails a more detailed and extensive examination of the merger situation. While the principles of substantive assessment are the same, CCCS will require access to more extensive and detailed information regarding the merger parties and the markets in question.

As the Phase 2 review is more complex, CCCS will endeavour to complete a Phase 2 review within 120 business days.

Commitments

Section 60A of the Act states that CCCS may, at any time before making a decision as to whether the section 54 prohibition has been or will be infringed, accept commitments that remedy, mitigate or prevent the substantial lessening of competition or any adverse effect arising from the merger situation. Where CCCS has accepted a commitment, CCCS will make a favourable decision.

Further details can be found in the *CCCS Guidelines on Merger Procedures 2012*.

For more information, please visit www.cccs.gov.sg