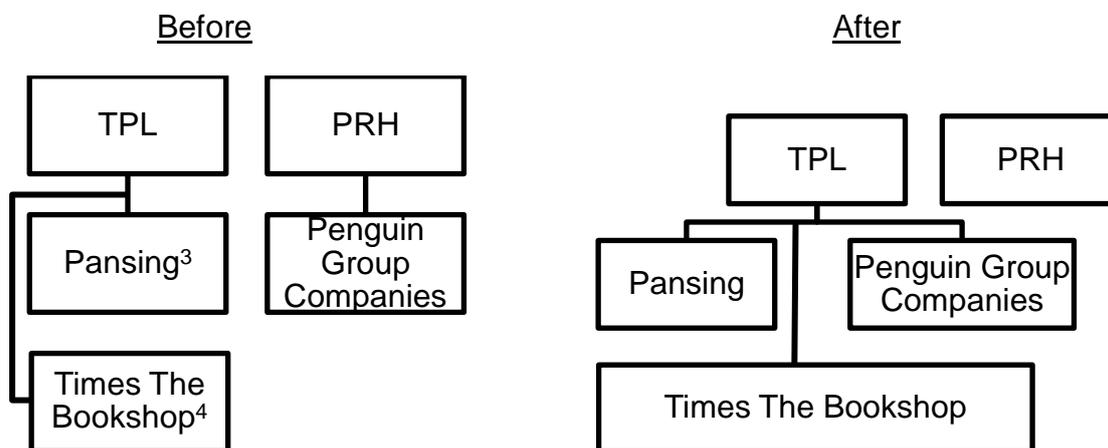


## MEDIA RELEASE

25 September 2017

### MERGER OF BOOK DISTRIBUTORS: CCS GRANTS CONDITIONAL APPROVAL AFTER TIMES PUBLISHING/PENGUIN GROUP UNDERTAKES NOT TO DISCRIMINATE AGAINST BOOK RETAILERS

- The Competition Commission of Singapore (“CCS”) has granted conditional approval of Times Publishing Limited’s (“TPL”) proposed acquisition of Penguin Random House Pte. Ltd. and Penguin Books Malaysia Sdn. Bhd. (collectively “Penguin Group Companies”) from Penguin Random House Limited (“PRH”) (“Proposed Transaction”) after accepting commitments from TPL.<sup>1</sup> The Proposed Transaction entails Penguin Group Companies entering into an exclusive distribution agreement (“Distribution Agreement”) with the Publishers.<sup>2</sup> The change in ownership structure is illustrated below:



<sup>1</sup>On 18 January 2017, CCS received a notification for decision from TPL in relation to TPL’s proposed acquisition of 100 per cent of the shares of the Penguin Group Companies from PRH. The notification sought CCS’s decision on whether the Proposed Transaction, if carried out, would result in a substantial lessening of competition within any market in Singapore.

<sup>2</sup>The Publishers are Penguin Books Limited, The Random House Group Limited, Penguin Random House LLC, and Dorling Kindersley Limited. The Publishers and PRH are part of the Penguin Random House Group.

<sup>3</sup> Pansing Distribution Pte. Ltd.

<sup>4</sup> Times The Bookshop Pte. Ltd.

## **CCS's Assessment**

2. CCS had earlier raised competition concerns after its initial review of the Proposed Transaction.<sup>5</sup> Prior to the Proposed Transaction, the PRH or Penguin Group Companies are not affiliated with any book retailer in Singapore, and books published by PRH are currently sold by different distributors to retailers. After the Proposed Transaction, pursuant to the Distribution Agreement, the Publishers' titles will be distributed exclusively in Singapore, Malaysia and Brunei by the merged entity, which will be affiliated with a downstream retailer, namely Times The Bookstores. This may lead to the merged entity having greater ability and incentive to discriminate or restrict supply of the Publishers' titles to other retailers.

## **Commitments by TPL**

3. To address the competition concerns, TPL has committed to supply third-party retailers the full range of books by the Publishers on a fair, reasonable and non-discriminatory ("FRAND") basis during the period of exclusive distribution. TPL will also apply the same Distributor Recommended Retail Price to all retailers, and will apply discounts to retailers in a FRAND manner, based on a set of objective discount criteria.<sup>6</sup> An Independent Auditor will be appointed by TPL to monitor compliance with the commitments.<sup>7</sup> The Commitments are attached in Annex 3.

## **Conclusion**

4. After evaluating feedback provided by third-party industry players and customers during the public consultation exercise held between 26 July 2017 and 8 August 2017 on the commitments, CCS considers these commitments to be sufficient to address the competition concerns. CCS has therefore approved the Proposed Transaction, conditional upon the implementation of and compliance with the commitments by TPL.
5. Further information on the application and CCS's Grounds of Decision will be made available in due course on CCS's Public Register at [www.ccs.gov.sg](http://www.ccs.gov.sg).

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<sup>5</sup> CCS had received feedback from market players as part of its initial review. General information on merger procedures and commitments are set out in Annex 1. A timeline for CCS's review and market consultations on the Proposed Transaction is provided in Annex 2.

<sup>6</sup> Third-party retailers that satisfy the same objective discount criteria should have the same access to the Publishers' books in terms of the similar prices and terms as TPL's own retailers.

<sup>7</sup> The Independent Auditor will assess complaints regarding a potential breach of the commitments, and will regularly provide a report to CCS concerning the compliance by TPL with the commitments.

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

CCS is a statutory board established under the Competition Act (Chapter 50B) 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).

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## **Annex 1**

### **Phase 1 and Phase 2 Merger Review**

Set out below is a description of the Phase 1 and Phase 2 merger review conducted by CCS. Further details can be found in the *CCS Guidelines on Merger Procedures 2016*.

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. CCS expects to complete a Phase 1 review within 30 business days. By the end of this period, CCS will determine whether to issue a favourable decision and allow the merger situation to proceed. If CCS 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, CCS will inform the merger parties and the merger parties may file Form M2. Upon receipt of Form M2, CCS 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, CCS 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, CCS will endeavour to complete a Phase 2 review within 120 business days.

### **Commitments**

Section 60A of the Competition Act states that CCS 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 CCS has accepted a commitment, CCS will make a favourable decision. Further details can be found in the *CCS Guidelines on Merger Procedures 2012*.

## **Annex 2**

### **CCS's Review & Market Consultations**

1. On 18 January 2017, TPL applied for a decision by CCS on whether the Proposed Transaction will infringe the prohibition in the Competition Act against mergers that could substantially lessen competition in any market within Singapore if carried into effect.
2. As part of the Phase 1 review, CCS conducted a public consultation from 20 January 2017 to 6 February 2017 to invite feedback on the Proposed Transaction.
3. Following the Phase 1 review, CCS raised competition concerns that may arise from the Proposed Transaction on 1 March 2017. In lieu of proceeding to a Phase 2 review, TPL offered commitments to address the potential competition concerns that had been identified.
4. On 26 July 2017, following a period of discussion with TPL on the commitments offered, CCS commenced a public consultation to invite feedback on the commitments offered by TPL. The public consultation concluded on 8 August 2017.
5. Following the conclusion of the public consultation and taking into consideration feedback received, CCS concluded that the commitments will address the potential competition concerns that may arise as a result of the Proposed Transaction.
6. CCS therefore approved the Proposed Transaction, conditional on the implementation of and compliance with the commitments.