



IN THE ACT

MAKING MARKETS WORK WELL

ISSUE 4 | JUNE 2019 - SEPTEMBER 2019

SALE UNLIMITED

MOOKATA RESTAURANT
FOUND TO HAVE
BREACHED CPFTA FOR
MISREPRESENTING ITS
DISCOUNT PERIOD

BLUEPRINT

What Businesses Should Do
When Promoting Discounts

PASSING THE TORCH

CCCS WELCOMES NEW
CHIEF EXECUTIVE

GOT SOMETHING TO SAY?

Find out more about why
CCCS conducts public
consultations



CE's NOTE

This will be my final note as CE, CCCS. I have been at CCCS for over a decade, and as its Chief Executive for the last six years. Since its inception, CCCS has sought to make markets work well to benefit businesses and consumers in Singapore. To date, we have completed over 565 cases and imposed over S\$83 million in financial penalties across 16 infringement decisions. We worked closely with our overseas counterparts and issued our first international cartel infringement decision in 2014 and took over the consumer protection mandate in 2018. On the consumer protection front, CCCS earlier this year filed an injunction application against an errant car importer, which resulted in a Court Order being issued against that importer. A restaurant also ended an unfair practice of making misleading representations on its discount period following CCCS's investigation.

Most recently, CCCS signed an MoU with the Competition Bureau Canada to enhance cooperation and competition enforcement between the two agencies. This is CCCS's first MoU with an overseas enforcement agency that covers both competition and consumer protection.

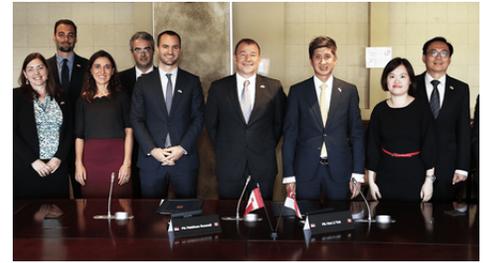
CCCS conducts public consultations for all mergers notified to us. The month of September saw CCCS conducting four public consultations across various industries. The feedback received from these consultations provided useful information, which will help CCCS in assessing the impact on competition in these industries.

Finally, I would like to take this opportunity to warmly welcome Ms Sia Aik Kor back to CCCS, who will take over from me with effect from 1 October 2019. Ms Sia is one of CCCS's pioneers, and was its first Director (Legal & Enforcement) from 2005-2010. With Ms Sia at the helm, I am confident that CCCS will continue to work closely with our stakeholders to foster a vibrant economy with well-functioning and innovative markets.

TOH HAN LI
CHIEF EXECUTIVE

COMPETITION AND CONSUMER COMMISSION OF SINGAPORE

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ABOUT 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) 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.

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DISCOUNT

SALE UNLIMITED

Restaurant Ends Misleading Representation on Discount Period

Charcoal Thai 1 restaurant was found to have misrepresented its discount period, which breached the Consumer Protection (Fair Trading) Act (CPFTA). Under the CPFTA, it is an unfair practice to represent that goods or services are available at a discounted price for a stated period of time if the supplier knows or ought to know that the goods and services will continue to be available for a substantially longer period.

What happened?

CCCS started investigating Charcoal Thai 1 in 2018 when it found, as part of its on-going market monitoring efforts, that no end date to the discount period was stated on Charcoal Thai 1's promotional materials. These materials also stated that the discounts for meals such as lunch sets and steamboat items were either available for a "limited period only", or would be "Ending Soon! 50% Discount", when in fact they continued to be available for at least another two years since February 2016.

[Read more >>](#)

Impact of unfair trade practices

Such claims on the discount period not only misled consumers into believing that there is a price benefit and scarcity in the availability of the promotional prices, it also provided Charcoal Thai 1 an unfair advantage over businesses which comply with the CPFTA by making efforts to help consumers make accurate price comparisons, i.e. through providing genuine discounts over a stated period of time and representing this to consumers clearly in their promotional materials.

Ending Unfair Practice

Charcoal Thai 1 has since agreed to end the unfair practice and not engage in any other unfair practices under the CPFTA. Specifically it has agreed to:

- a. **Cease and desist the unfair practice described in paragraph 18 of the Second Schedule of the CPFTA;**
- b. **Not engage in any other unfair practices as defined under section 4 of the CPFTA or specified in the Second Schedule of the CPFTA; and**
- c. **Not make representations (whether verbal or written) on its website, Facebook page, in-store displays, posters, menus and any other forms of publicity, promotional materials and advertisements using phrases such as "Ending Soon! 50% Discount" and/or, "Limited period only" without specifying an expiry date.**

CCCS has closed its investigation given that Charcoal Thai 1 has taken the necessary steps to address CCCS's concerns. CCCS will continue to monitor Charcoal Thai 1's conduct closely and other businesses that may engage in unfair practices.



[Scan to read more about the case](#)





PASSING THE TORCH

New Chief Executive Appointed for CCCS

Ms Sia Aik Kor has been appointed as the Chief Executive (CE) of CCCS with effect from 1 October 2019, taking over from former CE Mr Toh Han Li when his term ended on 30 September 2019.

Ms Sia was Deputy Chief Counsel (Transactions & Administration) of the Civil Division at the Attorney-General's Chambers (AGC). She was seconded to then-Competition Commission of Singapore (CCS) from 2005 to 2010, where she served as its first Director (Legal & Enforcement).

During her term in CCS, she oversaw the issuance of the first infringement decision against a cartel, and put in guidelines that provided clarity to businesses on how the Competition Act would be implemented.

Mr Toh, who was appointed CE in 2013, will continue to serve in the Singapore Legal Service. Under his leadership, CCCS made significant progress in enforcing competition law in Singapore.

[Read more>>](#)

>> [Continued from page 5](#)

Businesses that infringed the Competition Act were penalised decisively, with infringement decisions issued across various industries. Mr Toh also enhanced Singapore's standing in the international and regional competition community.

The Ministry of Trade and Industry (MTI) extended its appreciation to Mr Toh for his contributions. Mr Lee Chuan Teck, Permanent Secretary (Development) for MTI, said, "I would like to thank Han Li for his contributions and commitment to CCCS, which have helped to develop a more robust competition regime and further the interests of consumers in Singapore. We wish Han Li all the best in his future endeavours."

Mr Lee also welcomed Ms Sia as the new CE of CCCS. Mr Lee said, "Market structures are evolving rapidly in response to new technologies and businesses. Aik Kor's extensive legal experience will equip her well to lead CCCS to deliver well-functioning markets and protect consumers' interests in this complex environment."



[Scan to read more](#)



Prior to AGC, Ms Sia served in various positions in the public sector, including as a:

- Justices' Law Clerk to the Chief Justice and Judges of the Supreme Court
- Assistant Registrar at the Supreme Court
- Deputy Public Prosecutor
- District Judge of the Subordinate Courts
- Official Assignee & Public Trustee at the Insolvency and Public Trustee's Office at the Ministry of Law

SPOTLIGHT



WE NEED
YOUR
FEEDBACK

GOT SOMETHING TO SAY?

CCCS's Public Consultation Process

CCCS conducts public consultation exercises, where appropriate, to gather public feedback regarding changes to legislation and policies, proposed mergers and acquisitions, commitments and agreements by businesses as well as for investigations.

Information submitted by interested parties during the public consultation period could be important and useful to CCCS's assessment.

CCCS's public register and public consultation pages on its website publishes information on all ongoing and past public consultation exercises, including the details of proposed policies and legislation, commitments, parties involved, the

rationale for it, and information on business activities where relevant. Information on parties who may be affected and potential competitive effects and efficiencies are also made available.

This information helps interested parties better understand the policy, transaction, commitment, agreement or business activity, and enables them to raise specific competition concerns or show support for the policy change or business transaction.

Scan to read
about CCCS's
public consultation
cases



SPOTLIGHT



FOUR PUBLIC CONSULTATION EXERCISES WERE RECENTLY CONDUCTED:

Proposed Merger of Korean Shipbuilding Companies

CCCS conducted a public consultation from 16-30 September, on the proposed merger of Daewoo Shipbuilding & Marine Engineering Co., Ltd. (DSME) by Korea Shipbuilding & Offshore Engineering Co., Ltd. (KSOE) and the intended integration of their businesses. Both KSOE and DSME are primarily active in shipbuilding. CCCS is assessing whether the proposed merger would result in the substantial lessening of competition in the shipping industry.

Withdrawal of Emirates from the SG-Brisbane Route

Emirates applied to CCCS to remove its capacity commitments for the Singapore-Brisbane route, in relation to its alliance with the Qantas Airways Ltd, as Emirates intends to withdraw from the route entirely. In 2013, CCCS approved the proposed alliance between Qantas and Emirates, after receiving capacity commitments from the parties which addressed CCCS's competition concerns and would result in economic benefit.

As the application affects the conditions of the approved Alliance, CCCS sought feedback from 13-24 September to allow it to assess the effects of Emirate's proposed withdrawal of capacity commitments for the Singapore-Brisbane route.

BreadTalk-Food Junction Proposed Merger

CCCS invited public feedback from 11-24 September on the proposed acquisition by Bread Talk Group Limited, through its subsidiary Topwin Investment Holding Pte Ltd, of Food Junction Management Pte Ltd (FJM). Topwin submitted that it primarily overlaps with FJM in two markets: (i) the sale of drinks, fruits, snacks, desserts and hot meals to individual consumers in food court premises; and (ii) the rental of stalls to food vendors located within food court premises.

CCCS will assess whether the proposed merger would result in the substantial lessening of competition in the relevant markets.

Proposed Guidelines on Price Transparency

CCCS is seeking public feedback on the proposed set of guidelines on price transparency. The guidelines are intended to assist suppliers in their display and advertisement of prices. Specifically, the proposed guidelines provide details on issues pertaining to both online and physical retail pricing practices, including (i) Drip pricing and pre-ticked boxes; (ii) Price comparisons; (iii) Discounts; and (iv) Use of the term "free".

The guidelines provide information on CCCS' approach and positions on the display and advertisement of prices. The guidelines will also provide some of the factors and circumstances that CCCS may consider when assessing whether displayed/advertised prices and pricing practices are sufficiently transparent, or potentially misleading. The public consultation will end on 21 October 2019.

CCCS AND CBC SIGN MOU TO FACILITATE COOPERATION



CCCS and the Competition Bureau Canada (CBC) inked a Memorandum of Understanding (MoU) on 17 September 2019. The MoU will facilitate cooperation between CCCS and CBC in the enforcement of their respective national competition and consumer protection laws including areas such as case notification, enforcement coordination, information exchange as well as technical cooperation and experience sharing. This is the first MoU between CCCS and an overseas enforcement agency that covers both competition and consumer protection laws.

ENGAGEMENT WITH THE PCC AND LEGAL COMMUNITY



CCCS Chief Executive, Mr Toh Han Li spoke to the community of legal practitioners on 27 August 2019 at an event hosted by the Philippine Competition Commission in Manila, Philippines. Mr Toh shared CCCS's experience on engaging stakeholders to foster a culture of competition and compliance. He also highlighted the importance of a competition compliance programme for businesses to educate employees on the dos and don'ts on the Competition Act.

COLLABORATION BETWEEN CCCS AND ASLEA



CCCS signed a two-year MoU with the Asian Law and Economics Association (AsLEA) which marks its role as a supporting organisation for the 2019 and 2020 AsLEA Conferences with the aim of stimulating research on competition policy and law in ASEAN. In collaboration with AsLEA, CCCS organised a plenary session “Perspectives on Competition Issues in the New Economy” during the 15th AsLEA Annual Conference “Law and Economics in a Disruptive World” which was held on 28 June 2019 in Bangkok, Thailand. ASEAN representatives shared their agency experiences

on how the dynamics of competition have been altered in the new economy, as well as how their authorities responded to competition cases in the new economy.

CHALLENGES OF COMPETITION LAW ENFORCEMENT IN THE DIGITAL ERA



CCCS’s Chief Executive, Mr Toh Han Li, participated in a forum 'Challenges of Competition Law Enforcement in the Digital Era' hosted by the Taiwan Fair Trade Commission on 18 and 19 June 2019. Mr Toh spoke about the trends and outlooks for international cooperation in competition law enforcement and his observation that there is declining scope for global cartels, but increasing scope for cross-border mergers and abuse of dominance cases. He also noted the uptick in enforcement action against abusive conduct by technology giants and suggested that leading agencies in these investigations can work together with small competition authorities which may not have the resources to pursue a full-scale investigation of their own. There is also potential for cross-border cooperation through conducting joint studies and projects.

BLUEPRINT

WHAT IS A MISLEADING REPRESENTATION ON DISCOUNT PERIOD?

It is when businesses state that the promotions or discounts for goods or services will be for a stated/limited period, while knowing that the promotions or discounts will be available for a substantially longer period



Misleads consumers about the promotions or discounted prices of goods or services



Misleads consumers into believing there is scarcity of the goods or services on promotions or discounts



Creates false or unwarranted sense of urgency in consumers to make immediate/hasty purchases

WHAT SHOULD BUSINESSES DO?



Ensure discounts or promotions offered are genuine



Promotional/marketing materials should help consumers make accurate price comparisons

BUSINESSES SHOULD NOT MISREPRESENT THAT:



Promotions or discounts are for a specified or limited period only when they will be available for a substantially longer period



Discounts are genuine when the promotional or discount price is the usual price



The goods or services on promotions or discounts are scarce when there is sufficient or abundant availability