

# The Asia-Pacific Antitrust Review



## 2013

Published by Global Competition Review  
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GLOBAL COMPETITION REVIEW



**Yena Lim**

Competition Commission of Singapore

**‘A robust competition regime is a critical success factor for a strong and resilient economy’: the 2013 economic scenario**

The global economy faces a risky and uncertain outlook in 2013, and continues to wrestle with the challenges of the eurozone debt crisis, the fiscal situation in the US, debt deleveraging and fiscal consolidation, and a slowing growth engine in China. External demand is projected to be weak and countries will face pressure to turn inward to focus on domestic issues and concerns. Against this backdrop, Singapore saw economic growth of around 1.2 per cent in 2012 (according to estimates released on 2 January 2013) and is expected to see growth of between 1 per cent and 3 per cent in 2013.

In a challenging low-growth environment, it becomes even more imperative for Singapore to ensure it creates conditions that are favourable to businesses and investors and strengthens the ability of Singapore-based companies in order to compete. Singapore faces rising competition in the region, both at the national and city level. It needs to grow a broad base of entrepreneurs and enterprises that can flourish in Singapore and take their position in world markets. Maintaining open and competitive markets in Singapore is critical to build strong players that can operate efficiently and innovatively, and become internationally competitive. A strong and robust competition regime, where competition policy and law is enforced consistently and transparently, is a critical success factor.

**The role of the Competition Commission of Singapore**

As the national competition authority, the Competition Commission of Singapore (CCS) shapes the competition regime to become a constructive force to grow a vibrant economy with competitive markets and innovative businesses. The goal is to strengthen the ability of domestic companies to compete in the international market and to attract fair-dealing foreign businesses to enter the Singapore market because they have confidence that they will compete on a level playing field.

In carrying out its responsibility as an enforcer of the Competition Act, the CCS is mindful that any regulatory intervention in the market imposes costs on businesses. It consciously seeks to balance regulatory and business compliance costs against the benefits from effective competition. It strives to ensure that the business community is aware of the importance of competition compliance, that there is broad engagement with different business groups and associations, there are open channels of communication to tackle problems at an early stage, and pertinent information is made available as widely as possible and in a timely manner.

**Enforcement priorities**

Instead of attempting to catch all forms of anti-competitive activity, the CCS’s primary focus is on conduct or acts which have an appreciable adverse effect on competition in Singapore, without any compensating net economic benefit. In assessing whether an action is anti-competitive, due consideration is given as to whether that action promotes innovation, productivity or longer-term economic

efficiency. Care is taken to ensure that innovative and enterprising endeavours are not inadvertently constrained by overzealous intervention. The CCS’s enforcement philosophy is reflected in the way it prioritises cases for investigation, as set out below:

- potential impact on the economy and society: this involves an assessment of how significant the industry is in the Singapore economy, whether the infringement has a great impact on business costs in Singapore, whether many consumers are potentially affected, and how the infringement will add to the costs of living;
- severity of the conduct: consideration is given to whether the conduct is hard-core price fixing, serious abuse of dominance or mergers that substantially lessen competition;
- importance of deterring similar conduct; in a small country like Singapore, the signalling effect is important to deter other companies from following suit to engage in the same or similar conduct;
- resource considerations: some consideration is given to weighing the available resources against workload, in determining which cases have priority; and
- risk of over-intervention: some behaviour may be motivated by factors such as innovation and entrepreneurship and it is important not to inadvertently stifle them through heavy intervention.

The CCS strives to act in a graduated manner proportional to the culpability and degree of infringement in deciding whether to make a finding of infringement and intervene in a particular case. It ensures that parties have the opportunity to present their side of the case and to make representations, and also deliberately seeks input from third parties who have an interest in the case and who are able to provide independent insight. Decisions put to the CCS have to be thoroughly and robustly argued and legal due diligence scrupulously observed. Once a decision is taken, enforcement is swift, clear and firm.

To date, many of the cases that CCS has looked at are from the services sector and involve small and medium enterprises. This is not a result of deliberate targeting by the CCS, but reflects the widespread impact of such businesses on the general population, the relatively lower level of knowledge and compliance with the competition law, and historical practices that have not kept pace with an evolving competition landscape. However, there are encouraging signs that companies and businesses are recognising the need for stronger competition compliance. In this regard, the CCS’s acts of reaching out to business and trade associations to spread the message and adopting a direct engagement approach with members of the business community have been particularly helpful.

**Review of past infringement decisions**

Since the CCS was established eight years ago, it has matured into an authority with a credible track record built around rigorous enforcement and proactive advocacy efforts. It has assessed over 160 cases and issued seven infringement decisions. Six involved anti-competitive agreements and one was a case of abuse of dominance. Three of the infringement decisions were appealed to the Competition Appeal

Board (CAB). The CAB upheld the liability of the parties on two cases, but reduced the quantum of penalties. The remaining case is awaiting a decision from the CAB.

The CCS runs a voluntary merger regime. It has assessed over 30 merger notifications across a broad spectrum of industries, including manufacturing, electronic, food and beverage, transport, and healthcare, among others. It has not blocked any mergers to date.

The following table sets out the seven infringement decisions.

<b>Date of infringement decision</b>	<b>Case</b>	<b>Total penalties</b>
9 Jan 2008	Collusive tendering (bid rigging) for termite treatment/control services by certain pest control operators in Singapore	S\$262,759
3 Nov 2009	Price fixing of coach bus services for travelling between Singapore and destinations in Malaysia from 2006 and 2008	The CCS imposed a penalty of S\$1.69 million against 17 parties which was later scaled down to S\$1.1 million by the CAB
4 June 2010	Collusive tendering (bid-rigging) in electrical and building works	S\$187,592
4 June 2010	Abuse of dominant position by SISTIC	The CCS imposed a penalty of S\$989,000 against SISTIC, which was later scaled down to S\$769,000 by the CAB
30 Sept 2011	Price fixing of monthly salaries of new Indonesian foreign domestic workers by employment agencies	S\$152,563
23 Nov 2011	Price fixing of rates of modelling services in Singapore by modelling agencies	S\$361,596 (CAB decision pending)
18 July 2012	Exchange and provision of sensitive and confidential price information for ferry tickets	S\$286,766

**SISTIC case on abuse of dominance**

Appeal Decision on 28 May 2012

A notable case involved the appeal of the CCS’s infringement decision against SISTIC.com Pte Ltd (SISTIC) for abusing its dominant position. The CCS had previously issued an infringement decision against SISTIC for abusing its market power by requiring key venue operators and event promoters in Singapore to use its ticketing services exclusively. The penalty imposed was S\$989,000 and the party was instructed to strike out the exclusive clauses from its contracts. SISTIC appealed to the CAB. On 28 May 2012, the CAB issued its decision on the appeal, which affirmed the CCS’s decision on liability but scaled down the quantum of penalty to S\$769,000. The CAB also ordered SISTIC to pay the CCS 70 per cent of the cost of the appeal.

This case is significant because it marks the first abuse of dominance case that CCS successfully enforced, and the party is a government-owned company. It has important signalling value that government-owned companies have to comply with the Competition Act.

Post-decision, the ticketing industry in Singapore has become more vibrant and competitive. There has been a new entrant and existing small ticketing service providers are now able to bid for events held at key venues, which was not previously possible. Some new and innovative services have been introduced by competitors attempting to differentiate themselves from one another. An example is leveraging on new distribution channels to give consumers more choice and added convenience. The CCS’s intervention has resulted in a better competitive outcome for the industry to the benefit of consumers.

**Batam Fast Ferry Pte Ltd and Penguin Ferry Services Pte Ltd on unlawful sharing of price information**

No appeal

On 18 July 2012, the CCS issued an infringement decision against Batam Fast Ferry and Penguin Ferry Services for engaging in unlawful exchange/sharing of commercially-sensitive price information on ferry tickets. The exchange of confidential price information is restrictive on competition, particularly in a duopoly such as this case. This is the first case involving the unlawful exchange of information and it sets the precedence on how the CCS will investigate and enforce on similar cases in future.

**Conclusion**

The CCS will continue to operate a proactive and business-friendly competition regime. There is an urgency to spread the message of competition and compliance to the business community, especially to small and medium-sized enterprises which have widespread impact on the general public. Competition compliance should be entrenched as part and parcel of good corporate governance. The CCS will pay careful attention to ground feedback to know the concerns of stakeholders and be relevant to their needs.

Competition policy plays an important role in helping Singapore to strengthen its economic competitiveness. The results from the CCS’s intervention may not be immediately visible. However, having a robust competition regime is a critical success factor in growing a strong and resilient economy. Businesses must have confidence that competition law exists to protect them from anti-competitive behaviour from their competitors, and to assure them of a level playing field to grow their business. Creating a constructive, effective and responsive competition regime will require the commitment and contribution of all parties.

**Background facts**

The CCS was established as a statutory body on 1 January 2005 and is wholly funded by the Ministry of Trade and Industry. It is an independent commission tasked with championing competition for growth and choice. It enforces the Competition Act by taking action against anti-competitive behaviour, abuse of dominance and mergers that substantially lessen competition. It runs a strong advocacy programme to promote the benefits of competition to the business community, members of the public and government agencies.

# About the Authors



## Yena Lim

Competition Commission of Singapore

Ms Yena Lim joined the Competition Commission of Singapore (CCS) as a Commission member and as its chief executive in October 2010. The CCS is a statutory body 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 CCS' mission is to champion growth and choice for the economy, and it focuses on rigorous enforcement and effective advocacy to achieve its goals.

Before she joined the CCS, Yena Lim was the managing director of the Agency for Science, Technology and Research (A\*STAR) from 2006 to 2010. She was involved in the last three Five-Year R&D plans for Singapore – from 2001–2005, 2006–2010 and 2011–2015, and oversaw A\*STAR's growth into a broad-based research funding agency, funding research institutes that spanned the biomedical and physical sciences and engineering fields and providing expertise to support the key manufacturing sectors in Singapore.

Ms Lim worked in the Ministry of Trade and Industry from 2002 to 2006, where she was responsible for economic policies pertaining to competitiveness and capability development for the economy. She was involved in the liberalisation of the electricity and gas markets, as well as the industrial land market structure. When she worked in the Ministry of Transport, she was in charge of reviewing the market structure for bus and rail transport, and also oversaw the move of the taxi sector towards greater liberalisation.

Her other appointments in government included driving HR reforms for the Singapore Civil Service when she was at the public service division of the Prime Minister's Office; overseeing the school physical infrastructure planning and development and the higher education policy in the Ministry of Education; and overseeing the government's fiscal policy, including revenue and taxation policies in the Ministry of Finance.



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2012



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ISSN: 1743-7989