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GCR INSIGHT

A dark grey silhouette map of the Asia-Pacific region, including India, Southeast Asia, China, and Australia, set against a black background. The map is centered behind the title text.

ASIA-PACIFIC
ANTITRUST REVIEW 2020

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Preface

Global Competition Review is a leading source of news and insight on national and cross-border competition law and practice, with a readership that includes top international lawyers, corporate counsel, academics, economists and government agencies. GCR delivers daily news, surveys and features for its subscribers, enabling them to stay apprised of the most important developments in competition law worldwide.

GCR's coverage of Asia continues to expand, with a senior reporter now stationed in Hong Kong and more plans for growth following Law Business Research's merger with Globe Business Media Group.

Complementing our news coverage, *Asia-Pacific Antitrust Review 2020* provides an in-depth and exclusive look at the region. Preeminent practitioners have written about antitrust issues in nine jurisdictions, as well as one regional overview for merger control. The edition includes updates to 16 chapters and adds three new ones: two chapters on merger control in India and Vietnam, and another on leniency in India. The authors are unquestionably among the experts in their field within these jurisdictions and the region.

The volume includes contributions from the chairs of the Australian Competition and Consumer Commission and Korea's Fair Trade Commission, as well as the chief executives of Hong Kong's Competition Commission and Singapore's Competition and Consumer Commission. Other experts look at a range of subjects, including abuse of dominance and vertical agreements in China and e-commerce in Japan.

This annual review expands each year, especially as the Asia-Pacific region gains even more importance in the global antitrust landscape. It has some of the world's most developed enforcers – in Australia, Korea and Japan, for example – but it also has some of the world's newest competition regimes, including in Malaysia and Hong Kong.

If you have a suggestion for a topic to cover or would like to find out how to contribute, please contact insight@globalcompetitionreview.com. GCR thanks all of the contributors for their time and effort.

Global Competition Review

London

March 2020

Singapore: Competition and Consumer Commission

Aik Kor Sia
Chief Executive

The Competition and Consumer Commission of Singapore (CCCS) administers and enforces the Competition Act (Cap. 50B), which empowers the CCCS to investigate and adjudicate anti-competitive activities, and to impose financial penalties on infringing parties. The CCCS is also the administering agency of the Consumer Protection (Fair Trading) Act (Cap. 52A) (CPFTA), which protects consumers against unfair trade practices in Singapore. The mission of the CCCS is to make markets work well to create opportunities and choices for business and consumers in Singapore. The broadening of CCCS's mandate to include consumer protection has allowed the agency to tap on synergies arising from the complementary nature of competition and consumer protection policies.

Making markets work well

In January, the CCCS issued an infringement decision against the operators of four hotels for exchanging commercially sensitive information relating to the provision of hotel room accommodation in Singapore to corporate customers. The parties' conduct reduced the competitive pressure faced by competitors which resulted in less competitive prices and options for customers. The CCCS also tackled issues relating to market conduct and structures, and worked with industry players to facilitate market entry and expansion. In May, the CCCS concluded its investigations into the supply of spare parts for the maintenance of lifts after accepting voluntary commitments that provided for the parties to sell lift spare parts to a purchaser on a fair, reasonable and non-discriminatory (FRAND) basis. These commitments would provide third-party maintenance companies in the market access to proprietary but essential lift spare parts, and allow them to compete more effectively for contracts to maintain and service lifts.

In November, the CCCS approved the removal of capacity commitments for an airline route between Singapore and Brisbane. The CCCS came to this decision after a thorough assessment which found that there continues to be competitive constraints for the route. The CCCS is in the process of reviewing another airline agreement involving commercial cooperation between two national carriers in relation to scheduling, pricing, sales and other areas.

The CCCS reviewed five merger notifications under its self-assessment voluntary regime, spanning industries including food products, healthcare and building materials. Of these, the CCCS cleared an acquisition involving food court operators, an acquisition involving distributors of food products, and an acquisition involving the supply of plasterboards and modular suspended ceilings. Competition concerns were raised in a merger involving clinical laboratories because the merging parties were considered close competitors prior to the transaction. Following an in-depth review, the CCCS cleared the merger after accepting commitments by the parties that included commitments on non-exclusivity and price. Another in-depth review is currently underway for a merger involving Korean shipbuilders in which the CCCS had raised competition concerns due to the removal of competition among suppliers post-transaction, and the presence of relatively high barriers to entry and expansion.

The CCCS continues to use market studies to complement its enforcement efforts. Market studies allow the CCCS to analyse and better understand potentially problematic sectors. In 2019, the CCCS completed a market study on the online provision of bookings for flight tickets and hotel accommodation to Singapore consumers. The study examined various business practices adopted by industry players, as well as the competition and consumer protection issues associated with these practices. This was the first market study by the CCCS to examine both competition and consumer protection issues. The study sets out a series of recommendations to encourage online travel booking providers to adopt transparent pricing practices so as to enable consumers to make informed choices and allow businesses to compete on a level playing field.

Following the market study on the online travel booking sector, the CCCS drafted a set of guidelines on price transparency containing the dos and don'ts for suppliers of consumer-facing industries. The guidelines, expected to be finalised in 2020, will provide some of the factors and circumstances that the CCCS may consider when assessing whether displayed and advertised prices and pricing practices (eg, 'drip pricing', the use of pre-ticked boxes or opt-in, opt-out) are potentially misleading. Through the price transparency guidelines, the CCCS aims to educate suppliers and, over time, reduce the occurrences of misleading pricing practices, which would allow consumers to shop more confidently.

The year 2019 also saw the CCCS issue its first enforcement action for consumer protection. Following an injunction application filed by the CCCS, a Court Order was issued against car retailer SG Vehicles to cease unfair trade practices relating to misrepresentations over the terms and conditions of the sale agreement. Separately, the CCCS secured an undertaking from food and beverage outlet Charcoal Thai 1 to end the unfair practice of misleading representations on discount periods in its promotional materials.

Outreach and advocacy

The CCCS continues to invest heavily in its outreach and advocacy efforts to ensure stakeholders are well educated on the law, with the aim of discouraging anticompetitive and unfair trade practices from occurring in the first place. The CCCS continues to regularly engage businesses, trade associations and chambers to help them understand how to benefit from competition law, and to encourage compliance as part of good corporate governance. In 2019, the CCCS participated in over 45 outreach sessions.

Singapore: Competition and Consumer Commission

Beyond businesses and consumers, the CCCS encourages government agencies to seek advice on the likely impact of their policies and initiatives on competition, as well as explore alternative options that can reduce any adverse impact on competition. To date, the CCCS has completed more than 200 competition advisories to government agencies. Besides providing formal advisories to government agencies, the CCCS regularly conducts outreach activities targeted at government agencies and their officers to raise awareness on competition matters. The CCCS continues to facilitate the Community of Practice for Competition and Economic Regulations (COPCOMER), an inter-agency platform, to share best practices and experiences on competition and regulatory matters. In 2019, the CCCS organised the COPCOMER 'Regulators Tea' on the topic 'Digital Platforms - Interplay between Competition, Consumer Protection and Data Privacy'.

To ensure the relevance of its decisions, the CCCS encourages staff to devote time to build up their knowledge and expertise in new areas in the field of competition and consumer protection. In 2019, the CCCS published three research papers. The first paper focused on price-based quantitative tools – the price co-movement analysis and the diversion ration analysis – which can be used to assess the extent of the closeness of rivalry between firms in price competition. The second paper examined the use of FRAND commitments and whether they could be used as a behavioural remedy to address competition concerns in certain cases. The third paper was a collaboration piece with the Personal Data Protection Commission (PDPC) on the impact of data on business innovation, market competition and consumers. Experts are also regularly invited to conduct in-house seminars on competition and consumer protection issues for the staff. Some notable experts who were invited to CCCS in 2019 include Delia Rickard, deputy chair of the Australian Competition and Consumer Commission; Richard Wish, emeritus professor of law at King's College London; Philip Williams, head of the Legal and Competition Team at Frontier Economics (Asia-Pacific); and Adrian Majumdar, partner at RBB Economics and former deputy director of economics at the UK competition authority.

To build awareness on consumer protection issues, the CCCS participated in a series of publicity events including roadshows, consumer fairs, bilingual radio talk shows and TV interviews, to educate the public on topics such as safe online transactions, pre-payment protection, common sales tactics, and tips for consumers and suppliers. The CCCS collaborates with the Consumer Association of Singapore (CASE) to highlight top industries with consumer complaints, smart buying tips and good retail practices. Through this series of activities, the CCCS aims to empower consumers to make informed decisions and report unfair business practices. Separately, the CCCS reached out to e-commerce platforms such as Qoo10, Carousell, Shopee and Lazada on the issues that consumers faced when using online platforms. Following the engagement, a notice by the CCCS was posted on Qoo10's sales management platform to inform sellers of the CPFTA and their obligations. The CCCS also partnered the Advertising Standards Authority of Singapore (ASAS) and co-hosted #TRUTH, an influencer marketing engagement session, with support from the Health Sciences Authority (HSA) in September 2019. This was the first combined outreach effort by the agencies to increase awareness of the regulations relevant to social media influencers.

In collaboration with the Economic Society of Singapore (ESS), the CCCS is organising the 4th run of the CCCS-ESS Essay Competition in 2020 to promote the awareness and understanding of competition and consumer protection polices, and to encourage discourse on competition and consumer protection policy matters in Singapore.

Involvement in the international and regional arena

Following the completion of the chairmanship of the ASEAN Experts Group on Competition (AEGC) by Singapore in April 2019, the CCCS handed the baton over to Malaysia. The CCCS remains active in supporting projects at the AEGC. The CCCS continued to support the Virtual ASEAN Competition Research Centre (Virtual Centre) by refreshing content on the Virtual Centre website, which included publishing new research articles in the repository and featuring new profiles of researchers with an interest in competition matters in the region. The development of the Virtual Centre was led by the CCCS in 2018 to stimulate research on competition in ASEAN and East Asia.

To further encourage research on competition issues in the region, the CCCS signed a two-year memorandum of understanding (MoU) with the Asian Law and Economics Association (AsLEA) in June 2019 to co-sponsor and act as a supporting organisation for the 2019 and 2020 AsLEA Annual Conferences. As part of the collaboration with AsLEA, the 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. In addition, the CCCS organised a breakout session at the conference in which academics and researchers submitted research papers and articles on competition issues in ASEAN and presented them at the breakout session.

The CCCS continues to play an active role in the International Competition Network (ICN) as a member of the steering group and co-chair of the ICN Advocacy Working Group (AWG). As co-chair of the AWG, the CCCS led and completed a project that collated agencies' experiences in conducting competition advocacy in relation to digital markets. The CCCS also partnered with the other AWG co-chairs (the Norwegian Competition Authority and the Hong Kong Competition Commission) and the Antimonopoly Committee of Ukraine to jointly organise the ICN Advocacy Workshop. More than 80 participants from 48 jurisdictions attended the workshop in Kiev, Ukraine to exchange ideas and share experiences on competition advocacy. In September, the CCCS signed onto the ICN Framework on Competition Agency Procedures (CAP) as a founding member. Members of the CAP agree to adhere to a set of agreed best practices to ensure fair and effective procedures for competition law enforcement.

Since the broadening of our mandate to include consumer protection enforcement, the CCCS actively participates in both international and regional consumer platforms such as the ASEAN Consumer Committee on Consumer Protection (ACCP) meetings and the International Consumer Protection Enforcement Network (ICPEN)'s annual conferences and best practices workshops. Further, in November 2019, the CCCS was invited to participate in a training session with the Ministry of Finance and Economy, Brunei Darussalam to share Singapore's consumer protection policy framework and our role in both advocacy and enforcement.

To explore how competition and consumer protection law could work together to support consumer welfare and economic efficiency, the CCCS participated in the ASEAN Consumer Protection Scoping Project Study Visit in Sydney, Australia in September 2019. Key discussion areas included the challenges that competition and consumer agencies face, work prioritisation and stakeholder engagement with consumers and businesses.

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At the bilateral level, the CCCS signed an MoU with the Competition Bureau Canada. This is the first MoU between the CCCS and an overseas enforcement agency that covers both competition and consumer protection laws. The MoU formalised and reinforced the existing cooperation and technical assistance activities between the two agencies, including areas such as case notification, enforcement coordination, information exchange and technical cooperation and experience sharing.

Looking ahead

The year 2020 marks the 15th anniversary of the agency. The CCCS will continue to strengthen its oversight of competition and consumer protection in Singapore to grow a vibrant economy with competitive markets and innovative businesses. The CCCS's key initiatives for 2020 will focus on facilitating Singapore's digital economy, empowering and protecting consumers, and fostering a pro-enterprise and pro-innovation ecosystem. In this regard, the key sectors of focus will be on digital platforms; building, construction and maintenance services; and the beauty and wellness sectors. In addition, the CCCS will be reviewing its Block Exemption Order for liner shipping agreements. It will consult relevant stakeholders and take into consideration, among other things, recent industry and regulatory developments. The CCCS is also drafting a guidance note on business collaborations that will provide guidance on how businesses can collaborate in compliance with competition law.

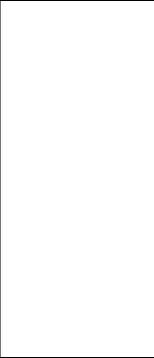


Aik Kor Sia
Competition and Consumer Commission of Singapore

Aik Kor is the chief executive and a commissioner of the Competition and Consumer Commission of Singapore.

Aik Kor has 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, and the official assignee and public trustee at the Insolvency and Public Trustee's Office at the Ministry of Law. From 2005 to 2010, Aik Kor was seconded to the then Competition Commission of Singapore, where she served as its first director (legal and enforcement).

Aik Kor read law at the London School of Economics and Political Science, University of London and holds a masters of law from Harvard Law School.



The Asia-Pacific Antitrust Review 2020 edition of Global Competition Review Insight is one of a series of books that cover a multitude of jurisdictions and topical issues in antitrust law in the Asia-Pacific region.

Each book delivers specialist intelligence and research designed to help readers – general counsel, academics, government agencies and private practitioners – successfully navigate the world’s increasingly complex competition regimes.

Global Competition Review has worked exclusively with the region’s leading competition practitioners, and it is their wealth of experience and knowledge – enabling them not only to explain law and policy, but also put it into context – that makes the report particularly valuable to anyone doing business in the Asia Pacific region today.

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