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**Section 57 of the Competition Act 2004**

**Grounds of Decision issued by the Competition and Consumer Commission of Singapore**

**In relation to the proposed acquisition by SATS International SAS of Promontoria Holding 243 B.V.**

**Date: 27 January 2023**

**Case number: CCCS/400/140/2022/008**

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Confidential information in the original version of this Decision will be redacted from the published version on the public register. Redacted confidential information in the text of the published version of the Decision is denoted by [⌘].

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## I. INTRODUCTION

1. On 2 November 2022, the Competition and Consumer Commission of Singapore (“**CCCS**”) accepted a joint notification from SATS International SAS (“**SATS International**”) and Promontoria 52 Coöperatie U.A. (“**Promontoria**”) (collectively, the “**Applicants**”) for a decision under section 57 of the Competition Act 2004 (the “**Act**”) as to whether the proposed acquisition by SATS Ltd. (“**SATS**”) through its indirectly wholly-owned subsidiary, SATS International, of Promontoria Holding 243 B.V. (“**PH 243**”), a holding company<sup>1</sup> which in turn indirectly owns 100 percent of the shares in WFS Global Holdings S.A.S. (“**WFS**”), (the “**Proposed Transaction**”) will infringe section 54 of the Act, if carried into effect.<sup>2</sup> For the purposes of the present assessment, SATS and WFS will be referred to as the “**Parties**” in this Grounds of Decision.
2. In reviewing the Proposed Transaction, CCCS conducted a public consultation, and obtained feedback from 48 stakeholders, including the Parties’ competitors and customers. A majority of the third parties who responded indicated that they were neutral or have no competition concerns about the Proposed Transaction.
3. After evaluating all the information from the Applicants’ submissions and the third party feedback, CCCS concludes that the Proposed Transaction, if carried into effect, will not infringe section 54 of the Act.

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<sup>1</sup> PH 243 is a private company with limited liability incorporated under the laws of the Netherlands. [§]. Promontoria is a cooperative with excluded liability incorporated under the laws of the Netherlands and is an affiliate of Cerberus Capital Management, L.P., a private investment firm headquartered in the United States. Paragraphs 7.3, 7.4 and 7.5 of Form M1.

<sup>2</sup> The notification of the Proposed Transaction was sent to CCCS on 27 October 2022.

## II. THE PARTIES

### (a) The Acquirer

4. SATS is a Singapore-based company listed on the Singapore Exchange.<sup>3</sup> SATS provides cargo and ground handling services<sup>4</sup> which encompass airfreight handling, passenger services, ramp handling, baggage handling, aviation security, aircraft interior cleaning, and premium lounge services. SATS also provides food solution services which encompass airline catering, food distribution and logistics, industrial catering and chilled and frozen food manufacturing.<sup>5</sup> SATS's activities are almost exclusively focused in Asia.<sup>6</sup>
5. The relevant activities of SATS in Singapore are as follows:
  - a. **Changi Airport:** SATS has a concession from the Changi Airport Group ("CAG") to provide ground handling services.<sup>7</sup> Specifically, SATS's airport terminal services include apron services (including ramp services, baggage services, load control, lost and found, aircraft interior cleaning, flight operations and ground support equipment maintenance) and air cargo services.<sup>8</sup> SATS also provides premium lounge services<sup>9</sup> at the airside<sup>10</sup> for commercial airline passengers at Changi Airport Terminals 1, 2 and 3, who are typically offered lounge access as part of the airlines' loyalty programmes, the purchase of a business or first class airline ticket, or as part of a credit card or airport lounge access programme (e.g., American Express, Priority Pass etc).<sup>11</sup> The SATS Premier Lounges at Changi Airport Terminals 1, 2 and 3 are not pay-per-use lounges<sup>12</sup> in that passengers are unable to gain access otherwise on a pay-per-use basis (i.e., paying SATS directly

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<sup>3</sup> SATS's top shareholder is Venezia Investments Pte. Ltd., an indirectly wholly-owned subsidiary of Temasek Holdings (Private) Limited, with a shareholding of 39.68%. Paragraph 7.1 of Form M1.

<sup>4</sup> "Ground handling" refers to the wide range of services provided to facilitate an aircraft flight or aircraft ground repositioning, preparation for and upon conclusion of a flight which will include both customer service and ramp service functions. "Cargo handling" refers to the segment of the supply chain which processes goods landside in the cargo facility, including loading and unloading cargo, transporting cargo, warehousing, etc.

<sup>5</sup> Paragraph 10.5 of Form M1.

<sup>6</sup> Paragraph 12.2 of Form M1.

<sup>7</sup> Paragraph 10.11 of Form M1.

<sup>8</sup> Paragraph 10.9.2 of Form M1.

<sup>9</sup> SATS's provision of premium lounge services is primarily derived from its appointment as a ground handling agent at Changi Airport. SATS provides the premium passengers of its handled airlines with premium lounge services as these airlines typically do not operate their own dedicated airline lounges at Changi Airport. These lounges are usually only available for the airlines' premium passengers.

<sup>10</sup> A distinction is to be drawn between "airside" and "landside". "Airside" is defined as the area past immigration clearance and is accessible to all travelers and transit passengers, while "landside" refers to the areas before immigration clearance and are accessible to travelers, transit passengers with relevant visa requirements, and all members of the public. See <https://www.changiairport.com/corporate/partnerships/airport-concessions.html>.

<sup>11</sup> Paragraph 15.6.7 of Form M1.

<sup>12</sup> The premium lounge services provided at Changi Airport can be categorised into 2 categories as follows: (a) Those provided by airlines for their premium passengers (first / business class or selected airline rewards / alliance membership tiers), with access to this type of lounge not generally open to all passengers; and (b) Pay-per-use or credit card affiliated lounges with access to this type of lounge generally open to all passengers on a pay-per-use basis, or as part of a credit card loyalty programme benefit.

to access the lounge).<sup>13</sup> SATS, through a joint venture with Plaza Premium Lounge Investment China Limited, also operates the Blossom Lounge at Terminal 4 of Changi Airport, which is a pay-per-use airside premium lounge.<sup>14</sup> In addition, SATS provides [X] such as [X] (“**Lounge Support Services**”) at the [X] and the [X] operated by [X] and [X], which are all located at the [X].<sup>15</sup>

- b. **Seletar Airport:** SATS has a concession from CAG to provide ground handling services for scheduled flights only.<sup>16</sup> SATS, through a joint venture with Jet Aviation (Asia Pacific) Pte. Ltd. and Universal Singapore Airport Services Pte. Ltd., also provides terminal management services (including premium bespoke passenger services) at the Seletar Business Aviation Centre (“**SBAC**”) to private jet passengers.<sup>17</sup>

**(b) The Target**

6. WFS is based in Paris, France and is an indirect, wholly-owned subsidiary of PH 243. WFS operates primarily in the provision of cargo handling services (including warehousing and storage of cargo, global logistics for air cargo shipping and cargo facilities management). WFS also provides ground handling services (including ramp, baggage, passenger and premium lounge services) and other freight related services (namely, offline services and truck services).<sup>18</sup> WFS has minimal geographical overlap with SATS as it is mainly active in Europe and the Americas instead.<sup>19</sup>
7. In Singapore, WFS operates under the brand name “JetQuay” and its activities in Singapore are as follows:
  - a. **Changi Airport:** WFS manages the JetQuay CIP<sup>20</sup> Terminal, which is a standalone terminal located at Changi Airport, where premium bespoke passenger services are provided to commercial airline passengers and private jet passengers. WFS does not have a concession to provide ground handling services or cargo handling services.<sup>21</sup> As WFS does not have a concession to provide ground handling services, WFS works with SATS and dnata (the only other ground handler at Changi Airport) for the provision of ground handling services such as check-in and baggage handling services.<sup>22</sup> WFS also engages SATS for the provision of peripheral services including the leasing of check-in equipment,

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<sup>13</sup> Paragraph 7.1 of the Applicants’ 5 January 2023 Response.

<sup>14</sup> Paragraph 24.10 of Form M1.

<sup>15</sup> Paragraph 4.2 of the Applicants’ 22 December 2022 Response; paragraph 2.2 of the Applicants’ 5 January 2022 Response.

<sup>16</sup> Paragraphs 10.12 and 15.2 of Form M1.

<sup>17</sup> Paragraph 10.12 and 15.4.1 of Form M1.

<sup>18</sup> Paragraph 10.7 of Form M1.

<sup>19</sup> Paragraph 12.2 of Form M1.

<sup>20</sup> CIP refers to “Commercially Important Persons”.

<sup>21</sup> Paragraph 10.16 of Form M1 and the Applicants’ 17 January 2023 Response.

<sup>22</sup> Paragraph 5.1 of the Applicants’ 22 December 2022 RFI Response.

maintenance services for JetQuay’s bagging tag printer and boarding pass printer, as well as security escort services and airside coach rental on an ad-hoc basis.<sup>23</sup> WFS had participated in, and won, a [REDACTED] contract for the landside provision of [REDACTED] at the Jewel Changi Airport public lounge (“**Jewel Lounge**”) from [REDACTED].<sup>24</sup>

b. **Seletar Airport**: WFS does not provide any services at Seletar Airport.<sup>25</sup>

8. An overview of the relevant activities by SATS and WFS in Singapore is shown in Table 1 below.

**Table 1: Overview of Relevant Activities by SATS and WFS in Singapore**

	<b>SATS</b>	<b>WFS</b>
<b>Ground Handling Services</b>	√	X
<b>Cargo Handling Services</b>	√	X
<b>Premium Lounge Services</b>	√	X
<b>Premium Bespoke Passenger Services</b>	√ Provided at Seletar Airport	√ Provided at Changi Airport
<b>Lounge Support Services</b>	√ ([REDACTED])	X <sup>26</sup>

### III. THE PROPOSED TRANSACTION

#### (a) Nature of the Proposed Transaction

9. The Proposed Transaction involves the acquisition of the whole of the issued share capital of PH 243 by SATS International, pursuant to a Sale and Purchase Agreement (“SPA”) entered into by Promontoria and the management sellers, SATS International and SATS on 28 September 2022. Following the Proposed Transaction, SATS will indirectly hold 100% of the shares and voting rights of WFS.<sup>27</sup>

#### (b) Commercial rationale of the Proposed Transaction

10. The Applicants submitted that the Proposed Transaction enables SATS to expand its geographic footprint, given that the Parties currently have complementary networks and minimal geographical overlap. Post-merger, the merged entity will offer an Americas-Europe-Asia Pacific network with a global footprint of 201 cargo and ground stations in

<sup>23</sup> Paragraph 10.16 of Form M1.

<sup>24</sup> Paragraph 25.3 of Form M1.

<sup>25</sup> Paragraph 10.13 of Form M1.

<sup>26</sup> As mentioned in paragraph 7.a above, WFS had participated in, and won, a [REDACTED] contract for the provision of [REDACTED] at the Jewel Lounge from [REDACTED] (which is located landside). However, the provision of such services has ceased and WFS did not participate in [REDACTED] to provide [REDACTED] in the last [REDACTED]. It currently does not provide any Lounge Support Services in Singapore.

<sup>27</sup> Paragraph 11.1 of Form M1.

23 countries.<sup>28</sup> With the Parties' enhanced geographic network and combined expertise, SATS would be able to service key customers on a worldwide basis with end-to-end solutions at consistent service levels, in competition with global players in ground and cargo handling. The Proposed Transaction would also accelerate SATS's growth in the cargo handling market.<sup>29</sup> The Applicants also submitted that the strategic and economic rationale for the Proposed Transaction is not driven by WFS's business in Singapore, given that it represents between [8-10]% of its global revenue and is different in nature to its primary business (*i.e.*, cargo handling).<sup>30</sup>

**(c) Merger under section 54 of the Act**

11. CCCS has considered the Applicant's submissions and agrees that the Proposed Transaction is a merger as defined in section 54(2)(b) of the Act, given that it results in SATS acquiring indirect sole control over WFS.<sup>31</sup>

**IV. COMPETITION ISSUES**

**(a) Summary**

12. The Applicants submitted that the Proposed Transaction would not give rise to any:
- a. Horizontal concerns as there is no horizontal overlap of any material significance (if at all) between SATS and WFS in Singapore;
  - b. Vertical concerns as the vertical links between the SATS and WFS are minimal and will not give rise to competition concerns as the combined entity will have no ability or incentive to foreclose competitors on the upstream or downstream markets; and
  - c. Competition concerns arising from the combination of the Parties' portfolio.
13. From the feedback of third parties, some third parties expressed concerns that the Proposed Transaction would lead to:
- a. An increase in prices for premium lounge services and premium bespoke passenger services due to a reduction in competition, lack of competitors in the supply of premium bespoke passenger services and the need of the merged entity to recover its capital expenditure arising from the Proposed Transaction;

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<sup>28</sup> Paragraph 1.9 of the Applicants' 22 December 2022 Response; paragraph 1.1 of the Applicants' 5 January 2023 Response.

<sup>29</sup> Paragraph 12.2 of Form M1.

<sup>30</sup> Paragraph 12.1 of Form M1.

<sup>31</sup> Paragraph 11.2 of Form M1.

- b. An increase in ability for suppliers of premium lounge services and premium bespoke passenger services to follow one another's price due to SATS's ability to redesign its pricing structure for premium bespoke passenger services in Singapore;
- c. An increase in the ability and incentive for SATS to refuse the supply of ground handling services to competitors of WFS in the supply of premium bespoke passenger services, which may foreclose competing premium bespoke passenger services providers; and
- d. Portfolio expansion of SATS which would enable it to offer bundled regional or global products and may lead to a reduction in actual or potential rivals' ability or incentive to compete post-merger.

**(b) CCCS's assessment**

14. Third party feedback generally corroborates the Applicants' submission that they currently do not compete in the provision of any products or services in Singapore. CCCS's assessment in relation to the provision of ground handling services, cargo handling services, premium passenger services and Lounge Support Services in Singapore are set out in paragraphs 15 to 23 below.

No horizontal overlap in the provision of ground handling services in Singapore

15. Third party feedback suggests that the Parties are currently not competitors in the provision of ground handling services in Singapore. While a third party noted that the Parties could be potential competitors in the provision of ground handling services, other information available to CCCS did not support the feedback. In view of the above, CCCS is of the view that there is no actual overlap and any potential overlap between SATS and WFS is limited (if at all) in the provision of ground handling services in Singapore.

No horizontal overlap in the provision of cargo handling services in Singapore

16. CCCS notes the Applicants' submission that WFS has not provided cargo handling services in Singapore at any point, [X]. Further, CCCS did not receive any third party feedback on the Proposed Transaction having any impact on the provision of cargo handling services in Singapore. In the absence of information suggesting otherwise, CCCS considers there to be no actual or potential overlap between SATS and WFS in the provision of cargo handling services in Singapore.

No competitive overlap in the provision of premium passenger services in Singapore

17. Third party feedback corroborates the Applicants' submission that premium passenger services operated in different airports are not substitutable, due to the following reasons:

- a. Concessions to operate premium lounge services and/or premium bespoke passenger services are typically granted on an airport-specific or terminal-specific basis.
  - b. The profile of flights at Changi Airport and Seletar Airport are fundamentally different, as Seletar Airport primarily serves private jets while Changi Airport primarily serves commercial flights.
  - c. While it is possible for some private jets to land at Changi Airport, this is dependent on whether CAG, which is the Slot Coordinator for operations at Changi Airport, grants the private jet a slot, considering the available airport capacity limits at the requested timing as well as Seletar Airport's operating / curfew hours. In this regard, information available to CCCS suggests that CAG has in general determined that non-scheduled flights<sup>32</sup> are to land at Seletar Airport, due to the need to optimise capacity at Changi Airport for the handling of scheduled commercial flights.
18. While a third party considered WFS a potential competitor to SATS in relation to providing premium bespoke passenger services at the SBAC, other information available to CCCS did not support the feedback.<sup>33</sup>
  19. CCCS is of the view that it is not necessary to conclude if premium lounge services and premium bespoke passenger services are substitutable for the purposes of assessing the Proposed Transaction given that horizontal competition concerns are unlikely to arise regardless of the conclusion. This is because the Parties are not close competitors in the provision of either services to date and the Proposed Transaction will not remove any competitive constraints on the Parties in Singapore. [X], while [X]. In terms of potential rivalry, while some third parties noted that SATS and WFS could be potential competitors in the provision of both premium lounge services and premium bespoke passenger services in Singapore, they are not aware of any indication by WFS to expand its footprint in Singapore in the provision of premium lounge services and/or premium bespoke passenger services.
  20. Given the lack of competitive overlap between the parties and other third party feedback that there will be sufficient choices of alternative providers for (a) premium lounge services and (b) premium bespoke passenger services in Singapore after the Proposed Transaction, CCCS is of the view that the horizontal competition concerns raised by third parties in paragraph 13.a above, namely an increase in prices for premium lounge

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<sup>32</sup> The Air Navigation Regulations defines "non-scheduled journey" as a journey that is not scheduled. The Aeronautical Information Publication Singapore issued by the Civil Aviation Authority of Singapore defines "non-scheduled flight" to refer to a flight for the carriage of passengers, mail or cargo by air for hire and reward on journeys other than scheduled.

<sup>33</sup> Paragraphs 17.4 of Form M1.

services and premium bespoke passenger services, are unlikely to arise as a result of the Proposed Transaction.

21. In relation to the concern of suppliers of premium passenger services having an increased ability to follow one another's price due to SATS's ability to redesign its pricing structure for premium bespoke passenger services in Singapore raised in paragraph 13.b, the third party who raised the concern was not able to adequately explain how SATS's ability, as the sole supplier of premium bespoke passenger services in Singapore post-merger, to redesign its pricing structure for premium bespoke passenger services in Singapore would result in an increase in ability for suppliers of premium lounge services to follow one another's prices. Other third parties noted that the Proposed Transaction will not have any impact on the ability of suppliers to coordinate their actions. Post-merger, CCCS also considers coordination amongst premium lounge service providers to be unlikely for the following reasons:
- a. The number of lounge operators at Changi Airport is not small.<sup>34</sup>
  - b. There are multiple different types of premium lounges operators at Changi Airport.
  - c. There is a low degree of homogeneity in the premium lounge services provided, as they could be located at different terminals, competing for different customers,<sup>35</sup> servicing different traveller segments or adopting different business models and cost structures.<sup>36</sup>
  - d. SATS negotiates the terms of supply with its customers for premium lounge services directly and privately, with the outcome of negotiations differing from customer to customer, and the negotiated prices and terms are not known to or discoverable by other airlines.<sup>37</sup> This is also corroborated by third party feedback.

#### No competitive overlap in the provision of Lounge Support Services

22. CCCS considers the competitive overlap between WFS and SATS in the provision of Lounge Support Services to be limited. This is because WFS has not participated in [X] to provide [X] in the last [X].<sup>38</sup> Apart from [X], there is no information to suggest any

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<sup>34</sup> See <https://www.changiairport.com/en/airport-guide/facilities-and-services/pay-per-use-lounges.html> and <https://www.changiairport.com/en/airport-guide/facilities-and-services/airline-lounges.html> for the current list of premium lounge services provided at Changi Airport.

<sup>35</sup> Intermediate customers of premium lounge services provided by ground handling providers comprise airlines and corporate companies. As for lounge services provided by independent third-party service providers, the intermediate customers may include corporate companies. However, there are generally no intermediate customers for premium lounge services provided by airlines. Paragraph 18.7 of Form M1.

<sup>36</sup> The way in which concessions are granted by CAG to provide premium lounge services at Changi Airport also differ for different types of lounges. Concessions are granted via direct allocation to ground handling agents and airline lounges (subject to space availability and suitability), whereas other third party operators providing paid access to any travelling passenger would have to tender for the concessions.

<sup>37</sup> Paragraph 6.1 of the Applicants' 22 December 2022 Response.

<sup>38</sup> Paragraph 4.4 of the Applicants' 22 December 2022 Response.

other instances where the Parties competed in tenders to provide Lounge Support Services at Changi Airport. WFS also does not have [REDACTED] in Singapore.

23. In addition, other information available to CCCS also corroborates the Applicants' submission that WFS and SATS are not each other's closest competitor in the provision of Lounge Support Services as their respective areas of expertise are different. While SATS provides Lounge Support Services at [REDACTED] to [REDACTED] and [REDACTED], WFS does not. CCCS also notes that no third party has raised concerns in relation to the provision of Lounge Support Services. Consequently, CCCS is of the view that it is not necessary to assess competition concerns arising from the Parties' provision of Lounge Support Services any further.
24. Given that the Proposed Transaction is unlikely to raise horizontal concerns as set out from paragraphs 15 to 23 above, CCCS did not assess horizontal effects any further.

#### Vertical Links

25. Third party feedback suggested that the Proposed Transaction would result in an increase in the ability and incentive for WFS to foreclose SATS's ground handling competitors by procuring such services for JetQuay CIP Terminal only from SATS post-merger ("**Vertical Theory of Harm 1**") and an increase in the ability and incentive for SATS to foreclose WFS's potential competitors for premium bespoke passenger services by refusing to provide ground handling services to them should they take over WFS in operating the JetQuay CIP Terminal ("**Vertical Theory of Harm 2**"). CCCS is of the view that neither Vertical Theory of Harm is likely to arise.
26. For Vertical Theory of Harm 1, third party feedback indicated that such a foreclosure strategy will not have a material impact on competitors' ground handling business, given that the number of passengers at Changi Airport that are handled at the JetQuay CIP Terminal is insignificant compared to the passengers handled at the main terminals of Changi Airport and competitors also have other customers to service. Furthermore, WFS also does not have the ability to appoint SATS as its sole ground handling services provider as each airline and private jet operator decides the appointment of its own ground handler.<sup>39</sup> In addition, as WFS is the operator of the JetQuay CIP Terminal, it would not be in WFS's interests to exclude SATS's competitors from providing ground handling services as it may affect and compromise service delivery at the JetQuay CIP Terminal. In this regard, CCCS notes that [REDACTED], and that there are other potential competitors with the suitable track record and experience to operate the CIP Terminal. Should WFS engage in such foreclosure strategies that compromise service delivery at the JetQuay CIP Terminal, the next contract to operate the CIP Terminal may be awarded to these potential competitors.

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<sup>39</sup> Paragraph 5.1 of the Applicants' 22 December 2022 Response.

27. As for Vertical Theory of Harm 2, CCCS is of the view that the competition concerns raised are unlikely to arise as ground handlers are not appointed by the CIP Terminal operator but by the airlines and private jet operators themselves. It is unlikely that SATS is able to refuse providing ground handling services at the CIP Terminal with a new operator, as it is contractually obliged to provide ground handling services to passengers of airlines and private jet operators which have appointed SATS as their ground handling agent, regardless of the operator of the CIP Terminal.<sup>40</sup> Further, third party feedback suggests that it is in SATS's interests to continue to provide ground handling services to all at Changi Airport. If it does not, airlines, private jet operators and any new CIP Terminal operator would be able to switch to its competitor for the necessary ground handling services, and a new CIP Terminal operator would also be free to obtain a ground handling concession to self-supply its ground handling services requirements at Changi Airport.

### Portfolio Effects

28. CCCS notes the Applicants' submission on the commercial rationale for the Proposed Transaction to expand their respective geographical footprints as mentioned in paragraph 10 above. On this, a third party suggested that the merged entity's ability to offer bundled regional or global ground handling services as a result of its portfolio expansion, which competing ground handlers may be unable to offer, could potentially reduce actual or potential rivals' ability to compete. Given the above, CCCS has focused its assessment of the Proposed Transaction on whether the Proposed Transaction would lead to the merged entity gaining the ability and incentive to reduce actual or potential rivals' ability or incentive to compete, by leveraging a strong market position from one market to another by means of tying, bundling or other forms of exclusionary conduct such as discount schemes and exclusive purchasing requirements.

## **V. COUNTERFACTUAL**

29. In the absence of market feedback or evidence suggesting otherwise, CCCS agrees that the appropriate counterfactual to be the prevailing conditions of competition prior to the Proposed Transaction, *i.e.*, that the Parties would continue their business operations independently.

## **VI. COMPETITION ASSESSMENT ON PORTFOLIO EFFECTS**

30. Given the feedback on SATS offering bundled deals including ground handling services, premium lounge services and premium bespoke services given SATS's network and service offering post-merger, CCCS assessed the impact of the Proposed Transaction on SATS's ability to foreclose its competitors by (a) tying or bundling of services in geographic networks and (b) tying or bundling services (ground and cargo handling

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<sup>40</sup> Paragraph 5.2 of the Applicants' 22 December 2022 Response.

services, premium lounge services and premium bespoke passenger services) in Singapore post-merger.

Tying or bundling of services in geographic networks

31. CCCS is of the view that any increase in incentive and ability for SATS to tie or bundle its services is unlikely to foreclose its competitors of ground and cargo handling services in Singapore for the following reasons:
- a. The risk of bundled regional or global products exists even before the Proposed Transaction. While the Proposed Transaction would expand SATS's global footprint, which may allow it to tie or bundle ground and cargo handling services across a wider geographic network, CCCS received third party feedback that competitors would still have sufficient customers to provide ground and cargo handling services to in Singapore post-merger, as their networks also enable them to offer similar bundles to airlines and they would be able to retain customers based on its service quality and competitive pricing.
  - b. The Proposed Transaction would not have a material impact on the barriers to entry to provide ground and cargo handling services in Singapore, and there are potential competitors which would be able to provide comparable or competing bundled products to airlines that operate routes to Singapore.
  - c. Customers would be able to refuse and reject any form of tying or bundling.

Tying or bundling of ground and cargo handling services, premium lounge services and premium bespoke passenger services provided in Singapore

32. CCCS is of the view that post-merger SATS would not have the ability to foreclose competitors of ground and cargo handling services, competitors of premium lounge services and competitors of premium bespoke passenger services, by tying or bundling its cargo handling services, premium lounge services and premium bespoke passenger services for the reasons below:
- a. Ground Handling Services and Premium Lounge Services. CCCS is of the view that should SATS require customers of ground handling services to procure additional services that they do not require, customers could procure ground handling services from competing providers. As noted in paragraph 31.c above, customers have the ability to refuse and reject any form of bundling and tying, procuring services based on their own requirements instead.<sup>41</sup>

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<sup>41</sup> Paragraph 1 of the Applicants' 31 December 2022 Response.

b. Ground Handling Services and Premium Bespoke Passenger Services. CCCS is of the view that it is unlikely post-merger for SATS to require customers of premium bespoke passenger services to procure ground handling services (and vice-versa), given the distinct nature of premium bespoke passenger services with a very specific target customer group. CCCS also did not receive any information that contradicts the Applicants' submission that there is no meaningful way to bundle premium bespoke passenger services with SATS's other services at Changi Airport.

33. Accordingly, CCCS concludes that the Proposed Transaction is unlikely to lead to a substantial lessening of competition ("SLC") in any markets in Singapore.

## VII. EFFICIENCIES

34. Given that the above competition assessment did not raise SLC concerns, CCCS is of the view that it is not necessary to make an assessment on the Applicants' claimed efficiencies.

## VIII. ANCILLARY RESTRICTIONS

35. The Applicants submitted a non-solicitation restriction for CCCS's consideration.<sup>42</sup>

36. CCCS accepts the Applicants' submission that the non-solicitation restriction is directly related to and necessary to the implementation of the Proposed Transaction. The non-solicitation clause is also not overly restrictive of competition as it is limited to a [X] group of identified [X] employees from [X]. The duration of the non-solicitation restriction is also within the usual range of duration (2 to 5 years) accepted in previous merger cases as indicated in the CCCS Merger Guidelines.<sup>43</sup> As such, CCCS concludes that the non-solicitation restriction constitutes ancillary restraints which benefit from the exclusion under paragraph 10 of the Third Schedule to the Act, insofar as they apply to Singapore.

## IX. CONCLUSION

37. For the reasons above and based on the information available, CCCS assesses that the Proposed Transaction, if carried into effect, will not lead to an SLC and consequently, will not infringe the section 54 prohibition. In accordance with section 57(7) of the Act, the decision will be valid for a period of 1 year from the date of CCCS's decision.

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<sup>42</sup> Paragraph 44.1 of Form M1; Annex 4 of Form M1; paragraph 13.1 of the Applicants' response dated 28 November 2022 to CCCS's RFI dated 17 November 2022.

<sup>43</sup> Paragraph 11.12 of the CCCS Guidelines on the Substantive Assessment of Mergers.



Sia Aik Kor  
Chief Executive  
Competition and Consumer Commission of Singapore