



MEDIA RELEASE

5 August 2008

CCS ADVISES THAT THE FEES GUIDELINES ISSUED BY THE INSTITUTE OF ESTATE AGENTS (IEA) ARE LIKELY TO BE ANTI-COMPETITIVE

1. The Competition Commission of Singapore (“CCS”) has, on 25 June 2008, informed the Institute of Estate Agents (“IEA”) that its Professional Fees/Commission Guidelines are likely to infringe the Competition Act. The IEA has been advised to remove its recommendation on fees and fee structures.
2. The IEA had applied to CCS for guidance on whether its published “Professional Fees/Commission for Real Estate Agents/Agencies” (“Fees Guidelines”) are likely to have the object or effect of restricting competition in the real estate agency market in Singapore, and infringe section 34 of the Act. The Fees Guidelines stipulate the fees and fee structures for estate agents and agencies handling various types of property transactions. For instance, under the Fees Guidelines, it was stated that a seller pays a minimum 2% of contracted price as sales commission and a buyer pays 1% of contracted price as service fee to agents for HDB properties.
3. The IEA’s position is that the Guidelines are non-binding and that agents are free to negotiate fees with their customers. However, CCS holds the view that even if the price recommendations are not binding, they will still provide a focal point for prices to converge. This will dampen competition and facilitate price coordination.

4. CCS further notes that the fees payable by property sellers are couched as a minimum fee recommendation in the Fees Guidelines. This practice discourages any price competition below the recommended rate. More efficient estate agents or agencies, which are able to charge lower rates, will have little incentive to do so.
5. CCS advises that estate agents or agencies set their fees and fee structures independently. Estate agents or agencies should not be constrained to offer the same price.
6. Consumers are encouraged to compare fees and services offered by different estate agents or agencies, before deciding on their choices of estate agents or agencies. Consumers should exercise their right to negotiate fees and terms with estate agents. This will facilitate and encourage competition amongst estate agents and agencies.
7. To allow consumers to make informed choices, the estate agents or agencies can also provide a breakdown of their fees vis-à-vis the level of services and options they provide.
8. If an association feels that there are unique circumstances which justify price recommendations, they may approach CCS or seek their own legal advice. CCS will also be conducting outreach sessions for trade and professional associations. Details of such sessions will be posted on the CCS website.
9. A summary of the guidance is attached (see Annex A).

About CCS

CCS is a statutory body established under the Act on 1 January 2005 to administer and enforce the Act. 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, visit www.ccs.gov.sg.

For media clarification, please contact:

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Notes:

- A. Section 34 of the Act prohibits agreements between undertakings, decisions by associations of undertakings, or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore.
- B. Businesses may notify and apply to CCS under section 43 of the Act for guidance on whether an agreement is likely to infringe the section 34 prohibition.
- C. CCS has powers under the Act to investigate anti-competitive activities. Parties will be given the opportunity to present their cases to CCS during the process. CCS can also require the production of information or documents, enter premises to inspect relevant documents or apply to a court for a warrant to search premises or persons.
- D. If CCS finds that an infringement was committed intentionally or negligently, CCS may impose a financial penalty not exceeding ten per cent of the turnover of the business of the infringing company in Singapore for each year of infringement, up to a maximum of three years. The Act provides that a penalty will not be imposed for any infringement of the section 34 prohibition, from the date on which the notification/application was made till a date specified in a notice in writing, when the application has been determined.