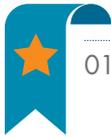




# COMPETITION ACT AND GOVERNMENT AGENCIES





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## BENEFITS OF COMPETITION

Competition contributes to the well-functioning of markets. With competition, businesses are incentivised to become more efficient, which in turn allows them to charge lower prices for their products and services. Businesses are also incentivised to innovate to improve the quality and range of their offerings that cater to the evolving tastes and different preferences of their customers. As a result, consumers enjoy competitive prices, more choices and higher quality products and services. The entry and exit of businesses as a result of competition also ensures that the most efficient and dynamic businesses remain in the market and they have the capability and resources to expand, innovate and seize opportunities. In the longer term, competition leads to an increase in productivity, ensures the economy remains competitive and supports sustainable economic growth.





## HOW GOVERNMENT PARTICIPATION IN MARKETS IMPACT COMPETITION?

There are instances where the market mechanism does not provide the necessary goods and services, or does not provide them in the “right” quantities, and it may be necessary for government to participate in markets. Government participation in market can take different forms, depending on the rationale for the intervention and the particular characteristics of the markets affected. It is also inevitable that they impact competition in the affected markets.

### TYPE OF GOVERNMENT PARTICIPATION IN MARKETS

#### GOVERNMENT AS SELLER

##### REASONS

- To provide essential public goods and services, e.g. public utilities.
- To directly participate in industries at an early stage of development to provide essential infrastructure and spur economic growth.

##### IMPACT

- This may crowd out private sector competitors that are willing to provide the same public goods and services.
- Subsequent divestment of government-owned companies or assets to the private sector may affect the market structure of the industry concerned, such as creating a private monopoly, leading to less competitive outcome.

#### GOVERNMENT AS BUYER

##### REASON

- To acquire inputs for providing essential public goods or services, e.g. public utilities, public housing.

##### IMPACT

- The structure of government tender and the specifications may affect the ability of suppliers to participate due to manpower, financial or technical requirements. For example, tenders that unnecessarily require the use of specific technology may restrict the participation of companies which may otherwise be able to provide a comparable service or product using different technologies. This may limit the ability of market players offering competing technologies to expand and in turn discourage further entry into the market.
- The design of government tender also plays an important role in mitigating the risk of bid-rigging. For example, a tender that is designed to allow many potential bidders to participate will make it more difficult for companies to collude on their bids. Request for detailed bids (e.g. itemised prices) will allow for greater scrutiny of the bids to understand the price variations.





## TYPE OF GOVERNMENT PARTICIPATION IN MARKETS

### GOVERNMENT REGULATION

#### REASONS

- To protect public safety, e.g. workplace health and safety regulations, or consumer protection through product safety standards.
- To achieve socioeconomic policy objectives, e.g. ensuring affordability of essential goods and services through price regulation.

#### IMPACT

- Issuance of licences or setting service standards may raise entry barriers, reduce the number of competing options available to consumers, and reduce competitive pressure on incumbents.
- Price controls may restrict or reduce incentive for sellers to compete on pricing and may also result in under-provision of goods and services in the long run due to cut back in the necessary investment.

### TAXES AND SUBSIDIES

#### REASONS

- To provide government with revenue to perform public duties and provide public goods and services.
- To modify business/consumer behaviour, e.g. to encourage investments in technology, to reduce congestion and pollution, to discourage smoking.

#### IMPACT

- Taxes targeted at specific products or services may unwittingly create an uneven playing field by channelling consumers towards substitutes that are not subject to tax.
- Inefficient businesses that would have exited the market under competitive conditions may be “sponsored” by subsidies to remain in the market as they do not face competitive discipline to improve and innovate.



## COMPETITION ASSESSMENT OF GOVERNMENT INITIATIVES

Government initiatives (be it in the form of policies, subsidy programmes, regulations, etc.) are often important for promoting and protecting public policy or interest. However, some government initiatives can have a substantial impact on competition. Although the prohibitions in the Competition Act do not apply to activities, agreements or conduct of the government, any statutory body or any person acting on their behalf, government agencies are strongly encouraged to assess the impact of their initiatives on competition in the affected markets during the early part of their internal process and consider alternative options to reduce any adverse impact on market competition.

To assist government agencies to understand the competition impact of their initiatives, the Competition and Consumer Commission of Singapore ("CCCS") has published on its website a Toolkit titled "**Government and Competition: a Toolkit for Government Agencies**" and the "**Competition Impact Assessment Checklist**".



As a first step, government agencies are encouraged to undertake a quick self-assessment using the **Competition Impact Assessment Checklist** set out below. If the answer is 'yes' to any of the questions, government agencies should proceed to perform a thorough competition impact assessment using the principles in **Government and Competition: Toolkit for Government Agencies**. Government agencies can also seek CCCS's advice with regard to the competition impact of their initiatives.





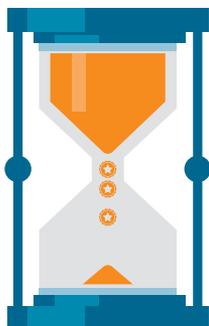
## COMPETITION IMPACT ASSESSMENT CHECKLIST

In affected markets identified, does the proposed initiative:



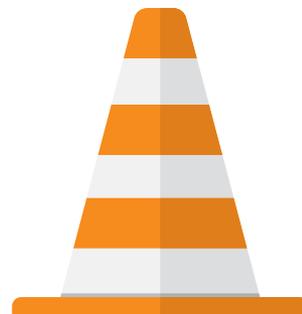
For example, does the proposed initiative:

- Grant exclusive rights to a seller for the provision of a product (for example, divestment of government-owned assets)?
- Involve procurement from a single or restricted group of sellers?
- Create a form of licensing scheme for sellers?
- Significantly raise the cost of entry or exit for a seller?



For example, does the proposed initiative:

- Control or substantially influence product price, quality or choice, for example,
  - Issuing a schedule to standardise product price, quality or choice across sellers?
  - Set product or quality standards that
    - (i) advantage some sellers over others or
    - (ii) are unnecessarily high relative to consumers' needs?
  - Limit ability of sellers to introduce new products or supply existing products in new ways?
  - Limit the geographic area in which a seller can operate or types of customers it can serve?
- Limit the freedom to advertise or market products?
- Raise the costs of some sellers relative to others?





For example, does the proposed initiative:

- Facilitate market players to set rules or engage in practices that reduce the need for them to compete under the pretext of self-regulation?
- Require or encourage the exchange of commercially sensitive information between sellers (for example, prices, output, sales or cost) which may facilitate collusion?
- Facilitate the sharing of resources between sellers that constitute a key cost component of their businesses?
- Restrict the ability of sellers to grow the size of their business?



For example, does the proposed initiative:

- Limit the ability of consumers to decide which seller to purchase from?
- Increase the cost (or inconvenience) of switching sellers for consumers?
- Reduce or limit information important for consumers to make purchase decisions effectively?





## SEEKING COMPETITION ADVICE FROM CCCS

It is CCCS's statutory duty to advise government agencies on national needs and policies in respect of competition matters. CCCS has advised on a wide range of competition issues, including the impact of specific government initiatives on competition in the affected markets, the structure of public procurement to encourage greater competition between suppliers, the supply of goods and services by the government, and government divestments.

A sample of CCCS's past advice to government agencies can be found on CCCS's website, [www.ccs.gov.sg](http://www.ccs.gov.sg).



CCCS's assessment will discuss the impact of the proposed initiative on competition in the affected market(s), and where possible, identify ways to alleviate these competition concerns. The government agencies will then be able to weigh CCCS's advice on competition issues against any other relevant considerations in the process of formulating their initiative.

Government agencies are encouraged to approach CCCS early during the formulation of their initiatives so that CCCS can provide its advice in a timely manner. In turn, government agencies can adequately evaluate the impact of the competition concerns and explore alternative policy options if necessary.

### APPROACH CCCS FOR ASSISTANCE



Government agencies that wish to seek CCCS's advice on competition issues can provide the required information using the **Information Template** found on CCCS's website, [www.ccs.gov.sg](http://www.ccs.gov.sg) and direct their request to the **Policy and Markets Division**. For general enquiries, please call the CCCS's hotline at: **1800-325-8282** or email [cccs\\_feedback@cccs.gov.sg](mailto:cccs_feedback@cccs.gov.sg).

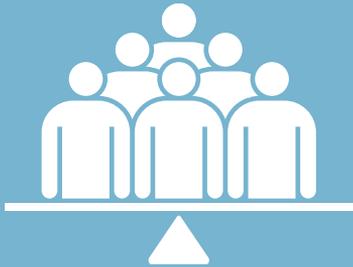


### PROVIDING INFORMATION TO CCCS

CCCS will keep the advisory process confidential and will not request for information from, or consult with, third parties unless it has the consent of the requesting government agency to seek feedback from third parties. The relevance and usefulness of CCCS's inputs will therefore depend critically on the quality of the information provided by the requesting government agency.



## #1: ADVICE TO MOM AND WDA ON JOBS BANK



In April 2014, the Ministry of Manpower (“MOM”) and the Singapore Workforce Development Agency (“WDA”) consulted CCS\* in relation to the proposed new Jobs Bank web portal (“Jobs Bank”), particularly on whether the creation of Jobs Bank will lead to any competition concerns. The Jobs Bank, administered by WDA, is a free service provided to all Singapore registered employers and local individuals to make job vacancies more visible to local job seekers. It also allows employers to have access to a larger pool of candidates. The Jobs Bank also supports MOM’s Fair Consideration Framework which requires employers to consider Singaporeans fairly for job opportunities.

CCS\* worked closely with MOM and WDA to better understand the design of Jobs Bank. Following so, CCS\* conducted a competition impact assessment to assess how Jobs Bank will affect competition in the online recruitment portal market in Singapore. In its assessment, CCS\* noted the potential benefits that Jobs Bank may bring. CCS\* also provided MOM and WDA with several recommendations aimed at maintaining competition in the market, including how information relating to Jobs Bank should be disseminated to the industry so that no interested party might be unintentionally left out.

## #2: ADVICE TO MTI ON SBF’S FAIR TENANCY FRAMEWORK



In response to concerns raised by small businesses looking to rent premises for commercial, industrial, retail and food and beverage activities, the Singapore Business Federation (“SBF”) led the industry effort to develop a Fair Tenancy Framework (“FTF”). This framework aims to establish a set of clear leasing guidelines and negotiation principles to assist businesses. Specifically, the FTF seeks to help tenants and landlords understand the key terms and conditions of a lease agreement, the respective roles and responsibilities and the implications of prevalent industry lease clauses. It also serves as a checklist for negotiation between tenants and landlords. Ultimately, the FTF encourages both parties to conduct open, transparent and fair negotiations.

MTI sought CCS\*’s comments on whether any recommendations within the FTF would raise competition concerns. CCS\* supported the promotion of clear contractual terms in tenancy agreements between the landlords and tenants and was of the view that the FTF does not raise competition concerns. At the same time, CCS\* recommended that SBF members should be allowed to independently decide if they want to follow the recommendations within the FTF. The FTF was launched by SBF in January 2015.

\*CCS has been renamed CCCS with effect from 1 April 2018

## COMMUNITY OF PRACTICE FOR COMPETITION AND ECONOMIC REGULATIONS

Established in December 2013, the Community of Practice for Competition and Economic Regulations ("COPCOMER") is an inter-agency platform for CCCS, sectoral competition regulators and a few other government agencies to share best practices and experiences on competition and regulatory matters. Through this exchange, COPCOMER seeks to encourage the adoption of effective regulatory and competition policies based on local experiences and international best practices.

Together with the Civil Service College and the Public Service Division (under the Prime Minister's Office), CCCS facilitates regular activities for COPCOMER, which include:



**Regulators' Lunch** – Each year, COPCOMER brings together high-level representatives from COPCOMER agencies to

discuss about latest or emerging competition and regulatory issues facing Singapore.



**Seminars** – Half-day seminars are organised bi-annually for different government agencies to share their experiences

on trending competition and regulatory issues happening in Singapore.



**Newsletters** – Regular newsletters are circulated to raise awareness on key competition and regulatory developments overseas.



**Trainings** – Specialised training sessions are arranged to equip officers with technical knowledge and skillsets to undertake the analysis and policy

assessment of competition or regulatory issues.

Past activities have gathered the support and participation of officers across the government, especially from the following agencies:

- Civil Aviation Authority of Singapore ("CAAS")
- Competition and Consumer Commission of Singapore ("CCCS")
- Civil Service College ("CSC")
- Energy Market Authority ("EMA")
- Infocomm Media Development Authority ("IMDA")
- Land Transport Authority ("LTA")
- Monetary Authority of Singapore ("MAS")
- Maritime and Port Authority of Singapore ("MPA")
- Ministry of Trade and Industry ("MTI")
- Public Service Division ("PSD")
- Singapore Police Force ("SPF")
- Singapore Tourism Board ("STB")
- Ministry of Transport ("MOT")



If you are a public officer whose work relates to competition or economic regulatory matters, you are invited to join us. Drop us an email at [cccs\\_feedback@cccs.gov.sg](mailto:cccs_feedback@cccs.gov.sg) and we will keep you in the loop on useful information and upcoming events.



*We interviewed Mr. Tan Cheng Peng, Director (Port Policy Division, MPA) and Mr. Ong Tong San, Cluster Director (Competition and Resource Development, IDA) on their experiences with COPCOMER.*

Mr. Tan Cheng Peng,  
Director  
(Port Policy Division, MPA)

“CCS\* has played a useful role in bringing together the various regulatory agencies to share their practices in regulation and promoting competitive practices in different markets. Their quarterly COPCOMER newsletter and biennial competition law conferences allow us to learn from both local as well as overseas regulatory and competition experts. Such efforts by CCS\* provide excellent opportunities for regulatory agencies such as MPA to learn and better understand the range and complexity of issues in competition policy regulation.”

“As the national competition authority, CCS\* helps to set the direction for general competition policies and enforcement, and provides learning points for other sectoral regulators such as IDA.”

Mr. Ong Tong San,  
Cluster Director  
(Competition and Resource  
Development, IDA)



## WHAT ARE THE OTHER SERVICES THAT CCCS PROVIDES FOR GOVERNMENT AGENCIES?

CCCS conducts regular presentations on the Competition Act and training sessions on specific areas of interest such as bid-rigging detection and prevention. CCCS also collaborates with government agencies to study specific markets with possible competition concerns, and research on competition-related topics.

Government agencies with specific needs or areas of interest can contact CCCS through our general hotline: **1800-325-8282** or via email to **[cccs\\_feedback@cccs.gov.sg](mailto:cccs_feedback@cccs.gov.sg)**.





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