



## MEDIA RELEASE

1 April 2024

### CCCS had issued Interim Measures Directions during the Possible Acquisition by Grab of Delivery Hero's business in Singapore

1. The Competition and Consumer Commission of Singapore ("**CCCS**") had issued a set of Interim Measures Directions (the "**IMDs**") to Delivery Hero SE, Foodpanda GmbH (Germany) and Delivery Hero (Singapore) Pte. Ltd. (collectively, "**Delivery Hero**") as well as Grab Holdings Inc. ("**Grab**") (each a "**Party**" and collectively the "**Parties**") on 2 February 2024, in relation to the possible acquisition by Grab of the whole or part of the business of Delivery Hero in Southeast Asia, including Singapore ("**Possible Transaction**").
2. Given the Possible Transaction and with the opening of CCCS' investigations, the IMDs issued by CCCS aimed to ensure that the market remained open and contestable<sup>1</sup> until the completion of CCCS's investigation. The IMDs ceased to be in effect from 23 February 2024 after CCCS was informed that the Possible Transaction had been abandoned.

#### Background

3. On 10 January 2024, the CCCS commenced an investigation into whether the Possible Transaction would infringe section 54 of the Competition Act 2004 (the "**Act**"). At the time, CCCS had reason to suspect that the Possible Transaction might result in a substantial lessening of competition in the market for the supply of online food ordering and delivery ("**OFOD**") services in Singapore, which is characterised by few large players, high entry barriers and strong network effects.<sup>2</sup>
4. CCCS issued the IMDs to the Parties in respect of their OFOD business entities in Singapore in order to prevent any action that may prejudice CCCS's investigations or its ability to direct any remedies under the Act should the need arise. The IMDs

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<sup>1</sup> A contestable market is one in which firms can freely enter or exit in response to market opportunities and conditions, and challenge the incumbent firm or firms for market share.

<sup>2</sup> The provision of OFOD services involves an interdependent network of delivery riders, food and beverage ("F&B") businesses and consumers which in turn gives rise to indirect network effects or a 'virtuous cycle' which favours the leading player. For example, a food delivery platform that has built up a high level of usage is more attractive to new delivery riders, F&B businesses and consumers than a competitor with less usage who offer the same intrinsic service.

took effect from 2 February 2024, and were specified to remain in effect until: (i) the completion of CCCS's review of the Singapore Merger<sup>3</sup>; (ii) the Parties informed CCCS that the Possible Transaction was abandoned; or (iii) the IMDs were varied, suspended or revoked by CCCS.

5. A copy of the IMDs can be found on CCCS's Public Register here: <http://www.cccs.gov.sg/cases-and-commitments/public-register>.

Measures to keep the market open and contestable

6. Under the IMDs, CCCS directed the Parties to not, amongst other things, take or omit to take any action to achieve and which causes or contributes to any of the following in the OFOD services in Singapore:
- a. the integration of the Parties' OFOD services businesses in Singapore;
  - b. the effecting of any agreement between the Parties (or their related entities) that would materially impair the ability or incentive of either Party to compete independently in the OFOD services in Singapore; or
  - c. materially impact the viability and saleability of Delivery Hero's Foodpanda businesses in Singapore such as to prejudice CCCS's ability to direct a divestment subsequently if necessary.
7. In particular, CCCS issued, amongst other things, the following directions to the Parties:
- a. The Parties shall not share confidential business information with each other, except where necessary for regulatory compliance or to advance any negotiations or due diligence in relation to a Singapore Merger;
  - b. The Parties shall deal with each other at arm's length, without unduly favouring each other against other competitors in any Singapore market;
  - c. Grab shall not make any payment to Delivery Hero, and Delivery Hero shall not receive any payment from Grab, in cash, stock or otherwise, in connection with a Singapore Merger;

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<sup>3</sup> This is defined at paragraph 2 of the IMDs as an acquisition of control, as understood in sections 54(3) and 54(4) of the Act, of Delivery Hero's Singapore OFOD business entity by Grab, or vice versa, or the merger of these entities by any means.

- d. Delivery Hero shall not take any deliberate or active steps to induce delivery riders, F&B merchants or customers of its Foodpanda business to migrate to Grab's platform in Singapore; and
  - e. The Parties shall not divest control of their respective OFOD businesses in Singapore to each other, and shall maintain their businesses and brand separate and independent from each other in Singapore.
8. The IMDs ceased to have effect from 23 February 2024. CCCS will continue to monitor market practices and will take necessary action to protect the market against mergers or acquisitions which may substantially lessen competition in Singapore.

- End -

### **About the Section 54 Prohibition under the Competition Act & Merger Procedures**

Section 54 of the Act prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition ("**SLC**") in Singapore.

A merger takes place where:

- Two or more independent business entities merge;
- One or more business entities acquire direct or indirect control of another entity; or
- One entity acquires all or a substantial part of the assets of another entity such that it can replace or substantially replace that entity in the business or in the relevant part of the business.

CCCS is generally of the view that competition concerns are unlikely to arise in a merger situation unless:

- The merged entity has/will have a market share of 40% or more; or
- The merged entity has/will have a market share of between 20% to 40% and the post-merger combined market share of the three largest firms is 70% or more.

Merging entities are not required to notify CCCS of their merger but they should conduct a self-assessment to ascertain if a notification to CCCS is necessary. If they are concerned that the merger has infringed, or is likely to infringe, the Act, they should notify their merger to CCCS. In such cases, CCCS will assess the effect of the merger on competition and decide if the merger has resulted, or is likely to result, in a SLC in Singapore.

Separately, CCCS has the power to conduct an investigation into an un-notified merger if there are reasonable grounds for suspecting that the merger infringes section 54 of the Act. In the event CCCS finds that a merger situation has resulted or is expected to result in an SLC, CCCS has powers to give directions to remedy the SLC. For example, CCCS can require the merger to be unwound or modified to address or prevent the SLC, as the case may be.

CCCS may also consider issuing interim measures prior to the final determination of the investigation. CCCS can issue interim directions as it considers appropriate if it considers it necessary for it to act for the purpose of preventing any action that may prejudice (i) the investigations, or (ii) the giving of any direction to stop any infringement or remedy the effects of such an infringement; or as a matter of urgency for the purpose of (i) preventing serious, irreparable damage to a particular person or category of persons, or (ii) of protecting the public interest.

For more information, please visit [www.cccs.gov.sg](http://www.cccs.gov.sg).

### **About the Competition & Consumer Commission of Singapore**

The Competition and Consumer Commission of Singapore (“**CCCS**”) is a statutory board of the Ministry of Trade and Industry. CCCS administers and enforces the Competition Act 2004 which empowers CCCS to investigate and adjudicate anti-competitive activities, issue directions to stop and/or prevent anti-competitive activities and impose financial penalties. CCCS is also the administering agency for the Consumer Protection (Fair Trading) Act 2003 or CPFTA which protects consumers against unfair trade practices in Singapore. Our mission is to make markets work well to create opportunities and choices for businesses and consumers in Singapore.

For more information, please visit [www.cccs.gov.sg](http://www.cccs.gov.sg).

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