



## **MEDIA RELEASE**

26 July 2017

### **TIMES PUBLISHING/PENGUIN GROUP PROPOSED MERGER: CCS CONSULTS ON COMMITMENTS PROVIDED BY PARTIES TO ADDRESS COMPETITION CONCERNS**

1. The Competition Commission of Singapore (“CCS”) is inviting interested parties to provide feedback on the proposed commitments by Times Publishing Limited (“TPL”) (“Proposed Commitments”) to address competition concerns raised by CCS in relation to TPL’s proposed acquisition of Penguin Random House Pte. Ltd. and Penguin Books Malaysia Sdn. Bhd (collectively “Penguin Group Companies”), and thereafter the entry into an exclusive distribution agreement (“Distribution Agreement”) by the Penguin Group Companies with the Publishers<sup>1</sup> (the “Proposed Merger”).
2. CCS had earlier raised competition concerns with TPL following the completion of its initial review of the Proposed Merger on 1 March 2017. On 24 July 2017, TPL proposed commitments to address CCS’s potential competition concerns.
3. TPL is a direct competitor to Penguin Group Companies in the marketing and distribution of English language print trade books<sup>2</sup> in Singapore. Currently, neither Penguin Random House Limited (“PRH”) nor its wholly-owned subsidiaries Penguin Group Companies are affiliated to any book retailer in Singapore, and books published by PRH are sold through multiple book distributors to multiple book retailers. The Proposed Merger will create a leading book distributor that has a market share of [40-50%], which is more than twice the market share of its closest competitor, with an exclusive supply of the book titles by the Publishers pursuant to the Distribution Agreement<sup>3</sup>. The merged entity will also be affiliated to a book retailer, namely Times

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<sup>1</sup> Penguin Books Limited, The Random House Group Limited, Penguin Random House LLC, and Dorling Kindersley Limited.

<sup>2</sup> Print trade books are physical books which are purchased by the general public in a retail environment (either online or physical) for entertainment purposes.

<sup>3</sup> Pursuant to the Distribution Agreement, the Penguin Group Companies will exclusively distribute the book titles (in physical format) in the English language published by the Publishers (or its subsidiaries) or in which the Publishers control rights and merchandise products in Singapore, Malaysia and Brunei. Examples of popular book

Bookstores. During the earlier consultation, stakeholders expressed concerns (with which CCS concurs) that the Proposed Merger will allow the merged entity to achieve substantial market power at the distribution level for it to discriminate or restrict supply to third-party book retailers, particularly titles belonging to the Publishers. CCS further notes that the Publishers are part of the Penguin Random House Group, which is known to be one of the world's leading print trade book publishers, and is likely to hold the publishing rights for a substantial list of book titles.

4. To address the above concerns, TPL has proposed to commit for the term of the Distribution Agreement to supply third party retailers the full range of books by the Publishers on a fair, reasonable and non-discriminatory ("FRAND") basis, including pricing. With FRAND pricing, TPL will apply the same Distributor Recommended Retail Price to all retailers for the same title and edition of the books, and will apply discounts to retailers based on a set of objective discount criteria. TPL will also appoint a Monitoring Trustee to monitor compliance with the commitments.

### **Public Consultation**

5. CCS now seeks feedback on the Proposed Commitments at Annex 2 to assist in its determination of whether they will sufficiently address the potential competition concerns arising from the Proposed Merger. CCS will issue its decision relating to the Proposed Merger, alongside the Proposed Commitments, following the public consultation.

6. More information on the public consultation can be accessed and downloaded from the CCS website at [www.ccs.gov.sg](http://www.ccs.gov.sg) under the section "[Public Register and Consultation](#)". The closing date for submissions is **8 August 2017**. If the submission/correspondence contains confidential information, please also provide CCS with a non-confidential version of the submission or correspondence.

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titles which are exclusively published by Penguin Random House Group or its affiliated publishers include Fifty Shades of Grey, The Handmaid's Tale, The Girl on the Train and When Breath Becomes Air.

### **About The Competition Commission of Singapore (CCS)**

CCS is a statutory board established under the Competition Act (Chapter 50B) on 1 January 2005 to administer and enforce the Act. It comes under the purview of the Ministry of Trade and Industry. 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, please visit [www.ccs.gov.sg](http://www.ccs.gov.sg).

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## **Annex 1**

### **Phase 1 and Phase 2 Merger Review**

Set out below is a description of the Phase 1 and Phase 2 merger review conducted by CCS. Further details can be found in the *CCS Guidelines on Merger Procedures 2012*.

A Phase 1 review entails a quick review and allows merger situations which do not raise competition concerns under the section 54 prohibition to proceed. CCS expects to complete a Phase 1 review within 30 business days. By the end of this period, CCS will determine whether to issue a favourable decision and allow the merger situation to proceed. If CCS is unable, at the end of the 30-day period, to conclude that the merger situation will not result in a substantial lessening of competition, CCS will inform the merger parties and the merger parties may file Form M2. Upon receipt of Form M2, CCS will proceed to a Phase 2 review.

A Phase 2 review entails a more detailed and extensive examination of the merger situation. While the principles of substantive assessment are the same, CCS will require access to more extensive and detailed information regarding the merger parties and the markets in question.

As the Phase 2 review is more complex, CCS will endeavour to complete a Phase 2 review within 120 business days.

### **Commitments**

Section 60A of the Act states that CCS may, at any time before making a decision as to whether the section 54 prohibition has been or will be infringed, accept commitments that remedy, mitigate or prevent the substantial lessening of competition or any adverse effect arising from the merger situation. Where CCS has accepted a commitment, CCS will make a favourable decision. Further details can be found in the *CCS Guidelines on Merger Procedures 2012*.