

IN THE ACT

MAKING MARKETS WORK WELL

ISSUE 11 | OCTOBER 2021 - JANUARY 2022

SPOTLIGHT: HITTING THE RIGHT NOTE

CCCS issues guidance note to help businesses work together with greater confidence and certainty

Fire Safety & Prevention (SG)

ordered to cease unfair trade practices involving supply of fire extinguishers

HAVE YOUR SAY

**BE SMART
WITH DOOR-TO-DOOR SALES**

ENVIRONMENTAL SUSTAINABILITY:

THE ROLE OF COMPETITION AND CONSUMER PROTECTION LAWS & POLICIES



CE's NOTE

SIA AIK KOR
CHIEF EXECUTIVE
COMPETITION AND CONSUMER COMMISSION OF SINGAPORE

CCCS is pleased to usher in 2022 with readers of *In The Act*. In this issue, we highlight the CCCS's Business Collaboration Guidance Note that was issued in December 2021, to clarify CCCS's position on seven common types of business collaborations so that businesses can work together with greater confidence.

To provide greater clarity and guidance to businesses and competition practitioners, CCCS also has published its revised Guidelines that will come into effect on 1 February 2022. The revisions provide details on how CCCS would apply the Competition Act in the digital era.

Other developments on the competition front include the three-year extension of the Block Exemption Order for certain liner shipping agreements from 1 January 2022 to 31 December 2024 and a merger clearance by CCCS in November 2021, in the pharmaceutical sector between Thermo Fisher, Inc. and PPD, Inc.

On the consumer protection front, following an application by CCCS, the State Courts have declared that Fire Safety & Prevention (SG) has engaged in unfair trade practices involving the supply of fire extinguishers. Businesses should not make false and misleading representations concerning the need for goods and services, or their affiliation to other organisations.

CCCS will not hesitate to take action against persistently errant suppliers.

CCCS continues to work closely with our international counterparts. In November 2021, we signed a MoU with the Philippine Competition Commission and in December 2021, a MoU was signed with China's State Administration for Market Regulation to facilitate cooperation in the field of competition. We have also partnered Stanford University on a computational antitrust project to explore how competition agencies can apply computational tools to antitrust work.

I am happy to announce that in collaboration with the Economic Society of Singapore, CCCS has kick-started the call for entries for our biennial essay competition on "Environmental Sustainability: The role of competition and consumer protection laws and policies". I encourage readers to spread the word and look forward to your participation.

Finally, I would like to welcome our new Commission Members - Ms Aurill Kam, Director, Legal Clinic LLC, and Associate Prof Walter Edgar Theseira, Associate Professor of Economics & Head, Master of Management (Urban Transportation), Singapore University of Social Sciences - who joined us on 1 January 2022.

Enjoy the read and stay safe in the new year.

CONTENTS



SPOTLIGHT

Hitting the Right Note	3
Guidelines Revisions	6
Playing with Fire	7
Set to Sail	9
Clinical Combo	10

TALKING POINT

CCCS-ESS Essay Competition 2022	11
<i>Environmental Sustainability: The role of competition and consumer protection laws and policies</i>	

GLOBAL ACT

CCCS signs MOUs with Philippines and China	12
Safeguarding Competition: A Post-Pandemic Response of ASEAN Competition Authorities	13
11th Seoul International Competition Forum	13
ICN Annual Conference 2021	14
CCCS joins computational antitrust project at Stanford University	14

BLUEPRINT

Be smart with door-to-door sales	15
----------------------------------	----

ABOUT CCCS

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 of 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 business and consumers in Singapore.

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SPOTLIGHT



Many collaborations between businesses can have pro-competitive effects. The Guidance Note specifies conditions under which competition concerns are unlikely to arise for certain types of collaboration so that businesses can collaborate more confidently for better and more efficient outcomes without harming competition.

MS. SIA AIK KOR, CCCS CHIEF EXECUTIVE

HITTING THE RIGHT NOTE

CCCS Guidance Note clarifies 7 common business collaborations

Businesses are transforming the way they operate to adapt and seize new opportunities. They may desire to collaborate with one another but may be unfamiliar with how competition law applies to such collaborations. To help businesses work together with greater confidence and certainty, CCCS has issued a Business Collaboration Guidance Note (“Guidance Note”) to provide businesses, including trade associations, with guidance on seven common types of collaborations.

In particular, the Guidance Note sets out factors and conditions, such as the nature and extent of the collaborations, and indicative market shares, under which competition concerns are less likely to arise from the collaborations.

The Guidance Note also provides supplementary guidance on how CCCS will generally assess whether such collaborations comply with section 34 of the Competition Act.

To find out more about Guidance Note, read the full Guidance Note and/or the Summary Brochure here:

Scan or
click to
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<https://go.gov.sg/bizcollabguidancenote>

Go to the next page for the seven common types of business collaborations covered in the Guidance Note



COLLABORATE WITH GREATER CONFIDENCE

CCCS GUIDANCE NOTE CLARIFIES 7 COMMON TYPES OF BUSINESS COLLABORATIONS

- ✓ Provides guidance and certainty on how these collaborations will be assessed
- ✓ Provides information on how to minimise competition concerns
- ✓ Encourage collaborations with pro-competitive outcomes
- ✓ Facilitates self-assessment by businesses that intend to collaborate



7 COMMON TYPES OF BUSINESS COLLABORATIONS COVERED ARE:

1. INFORMATION SHARING

Exchange of both price and non-price information among businesses;

2. JOINT PRODUCTION

Collaboration to jointly produce a product, share production capacity or subcontract production;

3. JOINT COMMERCIALISATION

Collaboration in the selling, tendering, distribution or promotion of a product;

4. JOINT PURCHASING

Collaboration to jointly purchase from one or more suppliers;

5. JOINT RESEARCH & DEVELOPMENT

Collaboration on R&D activities, such as joint investment;

6. STANDARDS DEVELOPMENT

Setting of industry or technical standards; and;

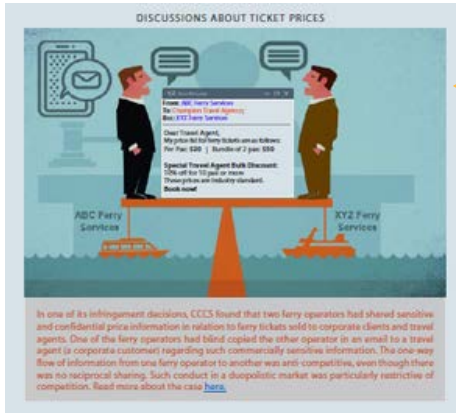
7. USE OF STANDARD TERMS BY COMPETITORS IN CONTRACTS WITH CUSTOMERS

Use of standard terms by competitors in contracts with customers.

The Competition and Consumer Commission of Singapore (CCCS) has issued a Guidance Note on Business Collaborations to provide guidance on how it will generally assess whether common types of horizontal collaborations comply with section 34 of the Competition Act (Cap. 50B).

A QUICK LOOK: BUSINESS COLLABORATIONS

Businesses and trade associations who want a quick and easy reference point to the Business Collaboration Guidance Note can download the [Summary Brochure](#), which includes:



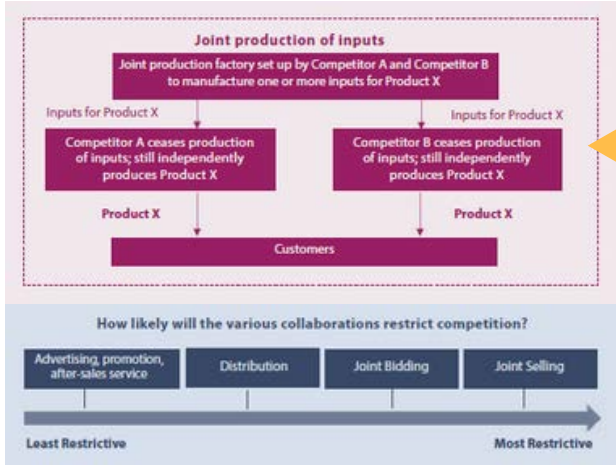
Learn about an actual case involving operators sharing sensitive and confidential information

Know when competition concerns are less likely to arise for each of the seven common types of collaborations

SUMMARY

Competition concerns are less likely to arise when:

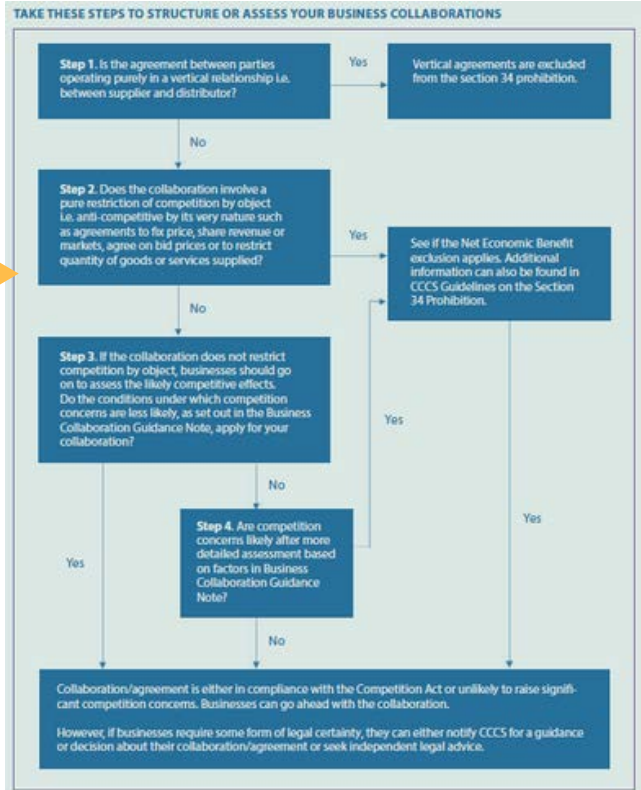
- 01** The collaboration is between businesses that are not actual or potential competitors or does not remove a maverick competitor from the market; OR
- 02** Where the collaborating businesses are actual or potential competitors for existing products or technologies, they do not have market power, e.g. their aggregate market share is less than 20%; OR
- 03** Where the collaboration is on new products or technologies, there are multiple viable, on-going alternative R&D projects undertaken by competing innovators that can produce close substitutes to the collaborators' resulting product or technology.



Understand how joint production and joint commercialisation agreements can be pro-competitive and steer clear from collaborations that restrict competition.

Take steps to structure or assess business collaborations

Get useful resources on how the Competition Act apply to cross-border collaborations



SPOTLIGHT



GUIDELINES REVISION

CCCS revises nine competition guidelines

CCCS has revised nine of its competition guidelines to provide greater clarity and guidance to businesses and competition practitioners on the analytical and procedural frameworks used by CCCS in enforcing the Competition Act.

The revisions to the guidelines took into consideration findings and recommendations from CCCS's E-commerce Platforms Market Study, CCCS's experience in applying the Act since the Guidelines were last revised in 2016 and international best practices. The revised Guidelines have incorporated suggestions and feedback from law firms, the business community, academia and a bar association.

The revised Guidelines, effective from 1 February 2022, are as follows:

- CCCS Guidelines on Market Definition;
- CCCS Guidelines on the Major Competition Provisions;
- CCCS Guidelines on the Section 34 Prohibition;
- CCCS Guidelines on the Section 47 Prohibition;
- CCCS Guidelines on the Substantive Assessment of Mergers;
- CCCS Guidelines on Merger Procedures;
- CCCS Guidelines on Directions and Remedies;
- CCCS Guidelines on the Appropriate Amount of Penalty in Competition Cases; and
- CCCS Guidelines on the Treatment of Intellectual Property Rights.

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<https://go.gov.sg/cccsrevisedguidelines>



PLAYING WTH FIRE

Company selling fire extinguishers ordered to stop unfair practices

On the application of CCCS, the State Courts have ordered Kelvin Tan, the sole proprietor of Fire Safety & Prevention (SG) (“FSPSG”) to stop engaging in unfair trade practices under the Consumer Protection (Fair Trading) Act in the course of selling fire extinguishers.

Kelvin Tan and his ex-employees were found to have persistently made false and misleading claims while carrying out unsolicited door-to-door sales, such as quoting consumers a price of \$17.90 for a fire extinguisher and subsequently charging a higher amount of \$179 for the same fire extinguisher. They also told consumers that there was a new law requiring each household to own a fire extinguisher by a certain date, when there was no such law, and that FSPSG was affiliated with or approved by the Government, the Singapore Civil Defence Force or various Community

Centres to sell fire extinguishers, when it was not.

The Consumers Association of Singapore (“CASE”) published a Consumer Advisory to alert consumers to the unfair practices of certain suppliers of fire extinguishers, including FSPSG, in March 2020 and CCCS began its investigation around the same time.

Businesses should provide clear and accurate key information relating to their goods and services. They should not make false or misleading representations concerning the need for goods or services, or their affiliation to other organisations.

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<https://go.gov.sg/hsangpessunfairpractices>

UNFAIR TRADE PRACTICES BY FIRE SAFETY & PREVENTION (SG)

Through unsolicited door-to-door sales

1 Falsely represented that the supplier was endorsed by or affiliated with the Government, Singapore Civil Defence Force or community centres to sell fire extinguishers to households.



2 Falsely claimed that the households were required by laws or regulations to have a fire extinguisher.



3 Represented that PAssion and NTUC cardholders, as well as Pioneer generation or Singaporeans, were entitled to discounts which did not exist.



4 Charged consumers a substantially higher amount of \$179 for a fire extinguisher than the original quoted amount of \$17.90.



5 Represented to consumers that their purchases were non-refundable which was untrue.



6 Mised consumers that there would be free yearly replacement or servicing of purchased fire extinguishers when replacement would only be done in specific circumstances.



Straits Times: Fire extinguisher company in S'pore ordered to stop unfair trade practices

Channel NewsAsia: Fire extinguisher supplier that misled consumers ordered to cease unfair practices

联合早报：售卖灭火器时误导公众 一公司被令停止不公平交易



SPOTLIGHT



SET TO SAIL

Block Exemption Order for Liner Shipping Agreements extended for 3 years till 2024

Following CCCS's recommendation, the Minister for Trade and Industry has extended the Competition (Block Exemption for Liner Shipping Agreements) Order (the "BEO") for three years from 1 January 2022 to 31 December 2024. The BEO will apply to vessel sharing agreements for liner shipping services and price discussion agreements for feeder services.

BEO extension for vessel sharing agreements for liner shipping services will improve the connectivity and competitiveness of Singapore's port, while the BEO extension for price discussion agreements for feeder services will support the presence of feeders in Singapore, which in turn will attract and anchor main lines to Singapore.

CCCS recommended the extension after it considered whether Liner Shipping Agreements will generate net economic benefits, taking into account the responses received during a three-

week public consultation held from 14 July to 4 August 2021. Respondents gave general feedback that the proposed recommendation to extend the BEO would have a positive impact on industry players and generate significant benefits for Singapore.

CCCS also considered that a duration of three years for the exemption will provide sufficient legal certainty and lead time for investments, while also allowing CCCS to conduct more regular reviews to ensure that the BEO remains relevant and current to conditions within the industry.

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<https://go.gov.sg/bec2021extension>

SPOTLIGHT



CLINICAL COMBO

Two companies dealing in clinical trials and research merged

CCCS has cleared the proposed acquisition (“Proposed Transaction”) by Thermo Fisher Scientific, Inc. (“Thermo Fisher”) of PPD, Inc. (“PPD”).

Thermo Fisher manufactures and supplies a broad range of analytical, research and bioprocessing products, and pharmaceutical contract development and manufacturing services globally. PPD is a clinical research organisation (“CRO”) mainly providing clinical development services to support pharmaceutical and biotech companies in the organisation and evaluation of clinical trials.

CCCS’s assessment focused on Thermo Fisher’s supply of Clinical Trial Support Services to CROs and laboratories that compete with PPD in Singapore, in particular, in the upstream markets for the Clinical Trial Support Services and the downstream market for CRO Services.

CCCS found that customer foreclosure concerns are unlikely to arise for the upstream markets for Clinical Trial Support Services and that input foreclosure concerns are unlikely to arise for the downstream market for CRO Services.

The Proposed Transaction is also unlikely to result in coordinated effects in the relevant markets given that there are sufficient competitors, prices are not transparent and contracts are highly customised to each clinical trial’s complex and varied requirements.

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<https://go.gov.sg/thermofisherppdcleared>

TALKING POINT

CCCS-ESS ESSAY COMPETITION 2022

TOPIC: Environmental Sustainability
The role of competition and consumer protection laws and policies

Deadline: 27 May 2022

CCCS COMPETITION & CONSUMER COMMISSION SINGAPORE

ESS Economic Society of Singapore

The essay competition, jointly organised by CCCS and the Economic Society of Singapore (ESS), is back for its 5th run! With environmental sustainability being one of the most important priorities facing many economies today, CCCS invites essay submissions to examine the role of competition laws and policies in supporting environmental sustainability in Singapore.

Awards:

- 1st prize - S\$3,000
- 2nd prize - S\$2,000
- 3rd prize - S\$1,000
- Merit (3 prizes) - \$300 each

Categories:

- **School** - all post-secondary students (regardless of nationality) studying in Singapore in polytechnics, Centralised Institutes, international schools and junior colleges may apply. This includes students currently enrolled in the Integrated Programme (Year 5/6) or in the International Baccalaureate diploma programme. Current full-time national servicemen and/or students who have recently completed their education in the above-mentioned schools/programmes, and Singaporean students in such institutions/programmes (or equivalent) overseas may also participate.
- **Open** - all individuals living in Singapore as well as Singaporeans living overseas (excluding those who qualify under the "school" category).

The closing date for submission of entries is **27 May 2022**.

The terms and conditions, as well as entry forms for the CCCS-ESS Essay Competition 2022 are available on the CCCS website here:

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<https://go.gov.sg/cccesessaycompetition2022>

GLOBAL ACT

CCCS SIGNS MOUS WITH PHILIPPINES AND CHINA



On 29 November 2021, CCCS Chief Executive Ms. Sia Aik Kor and the Philippine Competition Commission (PCC) Chairman Dr. Arsenio Balisacan signed a Memorandum of Understanding (MoU) to facilitate cooperation on competition enforcement.

The MoU will enhance effective enforcement of competition laws in Singapore and the Philippines through the establishment of a cooperation framework between both competition authorities. The MoU will also facilitate the exchange of information between CCCS and PCC, as well as enforcement coordination for cases of mutual interest.

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<https://go.gov.sg/cccspccmou>



On 29 December 2021, CCCS Chief Executive Ms. Sia Aik Kor and Vice Minister of the State Administration for Market Regulation of The People's Republic of China (SAMR) Madam Gan Lin inked a MoU to enhance understanding and cooperation between CCCS and SAMR in the field of competition law.

The MoU established a cooperation framework between both competition authorities which facilitates technical cooperation, experience sharing, information exchange and coordination for cases of mutual interest. The MoU also seeks to enhance the development of competition policy and law between both agencies and in the region.

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<https://go.gov.sg/cccssammou>

GLOBAL ACT

SAFEGUARDING COMPETITION: A POST-PANDEMIC RESPONSE OF ASEAN COMPETITION AUTHORITIES

The 9th ASEAN Competition Conference (ACC) was held virtually from 1 to 2 December 2021. The ACC is the flagship conference organised by the ASEAN Experts Group on Competition (AEGC) to discuss key competition developments and how they impact competition authorities and businesses in ASEAN. Mr. Loke Shiu Meng, CCCS Assistant Chief Executive of the Legal, Enforcement and Consumer Protection Division spoke at the session “The Rapid Shift Towards the Digital Economy and the Risk to Competition Enforcement”. He shared Singapore’s observations and approach towards regulating competition in digital markets.

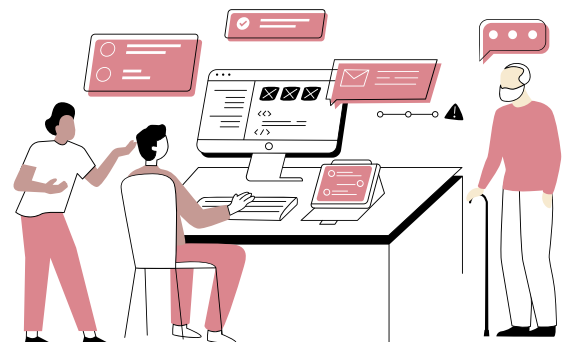


11TH SEOUL INTERNATIONAL COMPETITION FORUM



On 4 November 2021, CCCS Chief Executive, Ms. Sia Aik Kor, presented via video recording at the session “Platform Economy and Competition Policy”. She highlighted the importance of ensuring competition policies and frameworks remain relevant and robust so that CCCS can detect and tackle competition harm in the market. She added that CCCS is continuously monitoring key developments in the digital markets and reviewing its competition frameworks to provide greater clarity and guidance to businesses. Ms. Sia also shared CCCS’s approaches towards digital platforms which includes conducting market studies, reviewing of the competition guidelines, and applying amended guidelines in the enforcement of digital markets.

The forum was organized by the Korea Fair Trade Commission.



GLOBAL ACT

ICN ANNUAL CONFERENCE 2021

The virtual International Competition Network (“ICN”) Annual Conference was organised by the Hungarian Competition Authority from 13 to 15 October 2021.

Ms. Sia Aik Kor, CCCS Chief Executive, was a panelist on the plenary session on “Competition law enforcement at the intersection between competition, consumer protection, and privacy”. She shared on the interaction between data protection and privacy from Singapore’s perspective, and how competition and consumer protection can be complementary to data protection.

CCCS representatives also spoke at two breakout sessions on “Re-thinking the ICN Advocacy Toolkit” and “ICN Third Decade Project”.



CCCS JOINS COMPUTATIONAL ANTITRUST PROJECT AT STANFORD UNIVERSITY

CCCS is participating in a Computational Antitrust project hosted by the Stanford University CodeX Center and created by Professor Thibault Schrepel. CCCS joins a network of antitrust and competition agencies to discuss computational advancements and implementations. The project explores how legal informatics could foster the automation of antitrust procedures and the improvement of antitrust analysis. In a paper published [here](#), Professor Schrepel introduces computational antitrust, and explores how competition agencies, policymakers and market participants can benefit from it.

Visit the project’s website to learn more:

<https://law.stanford.edu/codex-the-stanford-center-for-legal-informatics/computational-antitrust/>

BE SMART with door-to-door sales:

- ➔ **Consumers should exercise caution when approached by anyone claiming to represent any government agency.**
If in doubt, request for proper identification or verification.
- ➔ **Be firm and turn down a salesperson if you do not want to purchase the product or service.**
- ➔ **Check the final amount on the invoice or payment terminal before making payment.**
If unsure, immediately clarify with the salesperson and do not hand over cash or debit/credit cards until you are satisfied with the clarification given.
- ➔ **Consumers generally have the right to cancel a direct (unsolicited door-to-door) sales contract within five days (excluding Saturdays, Sundays and public holidays) after the date on which the contract is entered into.**
If the contract is cancelled, it will no longer be enforceable against you and any money that you have paid to the supplier under your contract will be repaid to you within 60 days.

