

IN THE ACT

MAKING MARKETS WORK WELL

ISSUE 18 | FEBRUARY - MAY 2024

CARTEL BUSTED

Construction services companies caught bid-rigging

ERADICATING FALSE AND MISLEADING CLAIMS

Purexygen makes changes to business practices following CCCS investigation

PAUSE ON FOOD DELIVERY DEAL

CCCS issued Interim Measures Directions to food delivery deal

CE's NOTE

“We encourage both businesses and consumers to stay informed about our initiatives and partner us to help advance the work we are doing, so as to promote a vibrant and competitive economy that will benefit everyone.”



ALVIN KOH
CHIEF EXECUTIVE

Welcome to the latest edition of *In the Act*. This is also the first edition where I am writing as CE CCCS and I am pleased to update on recent developments that took place at CCCS from February to May 2024.

CCCS has recently issued a proposed infringement decision against two companies involved in bid-rigging tenders for interior fit-out construction services for non-residential properties in Singapore. This marks the 20th proposed infringement decision issued by CCCS to-date since our inception. Acting against cartels is a core part of our work and will remain our key priority.

In support of Singapore's whole-of-nation efforts to achieve long-term net zero emissions by 2050, CCCS has recently in March issued a guidance note for environmental sustainability collaborations. This guidance note aims to help businesses engage in such collaborations without worrying about infringing the law and provides information on the streamlined notification process for businesses wishing to seek legal certainty on their collaborations.

In the food delivery sector, we issued interim measures directions concerning the potential acquisition of Delivery Hero's business in Singapore by Grab. These measures were crucial to ensure that the food delivery market remains open and contestable until CCCS completed its investigation. With the talks ceasing, CCCS proceeded to lift these directions.

In the airline industry space, CCCS granted conditional approval for the transactions involving Singapore Airlines, Air India, and Vistara. After thorough review which took place over a period of three years, we considered the

proposed commitments and found them sufficient to address the competition concerns arising from the transactions. During the period, CCCS also cleared the proposed acquisition by ANA Holdings Inc. of Nippon Cargo Airlines Co., Ltd..

On the consumer protection front, we took action against Purexygen Pte. Ltd., a water filtration system supplier, who had engaged in several unfair practices, including making false claims on their product being tested by testing bodies, and making misleading claims on the health benefits of alkaline or filtered water. This action is part of our monitoring efforts of the water filtration system industry to review the practices of suppliers regarding concerns with their marketing practices relating to the accreditation, certification and health benefit claims found on their websites. We urge all suppliers to review their marketing materials to ensure that any claims made to consumers are clear, accurate and substantiated.

On the international front, CCCS participated in the 23rd International Competition Network Annual Conference in Sauipe, Brazil. CCCS also participated in the ICN technologists' forum, and the ICPEN Annual Conference in Apr 2024. These events provided an invaluable platform to exchange ideas and best practices with global competition authorities and allowed CCCS to showcase our work on the world stage.

We encourage both businesses and consumers to stay informed about our initiatives and partner us to help advance the work we are doing, so as to promote a vibrant and competitive economy that will benefit everyone.

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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 businesses and consumers in Singapore.

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SPOTLIGHT

CARTEL BUSTED

Construction services companies caught bid-rigging

On 23 May 2024, CCCS issued a Proposed Infringement Decision (“PID”) against Tarkus Interiors Pte Ltd (“Tarkus”) and Flex Connect Pte. Ltd. (“FL”) for infringing section 34 of the Competition Act 2004. The companies were found to have engaged in bid-rigging conduct in the supply of interior fit-out construction services for non-residential properties in Singapore.

The affected tenders, valued between \$150,000 and \$7,700,000, involved twelve properties, including offices, retail spaces, and food and beverage establishments.

CCCS’s investigations revealed anti-competitive agreements and/or concerted practices between Tarkus and FL to collude by bid-rigging tenders, thereby removing competitive pressure and depriving customers of best value offers. The tenders affected by the bid-rigging arrangements between Tarkus and FL were called from August 2016 to August 2021.

The two companies have six weeks from the receipt of the PID to make their individual representations. CCCS will consider the representations, as well as all available information and evidence, before making its final decision.



<https://go.gov.sg/pid-tarkus-fl>

SPOTLIGHT

IMPURITIES IN THE WATER

CCCS's intervention leads to changes in Purexygen's business practices

Following an investigation by CCCS, Purexygen Pte. Ltd. ("Purexygen"), a supplier of water dispensers, alkaline water filtration systems and maintenance service packages to consumers, was found to have engaged in various unfair practices under the Consumer Protection (Fair Trading) Act 2003 ("CPFTA").

The investigation revealed that Purexygen had made false claims that its water filters were tested by testing bodies, and had made misleading claims on the health benefits of alkaline or filtered water on their social media pages, including claims that alkaline or filtered water can help prevent certain health conditions such as osteoporosis and diabetes. Purexygen also misled a consumer by giving false excuses for persistent delays in delivering purchased water filters. Purexygen also misrepresented to consumers that its water faucet and water dispenser were free for a limited time in online listings, when it was provided free of charge at all times to customers.

In response to CCCS's investigation, Purexygen has taken active steps to make changes to their business practices and ensure compliance with the CPFTA. The company has given an undertaking to CCCS to cease engaging in unfair practices and to cooperate fully with the Consumers Association of Singapore ("CASE") to resolve consumers' complaints. Purexygen's directors have similarly given undertakings that Purexygen will not engage in the identified unfair practices.

CCCS has accepted the undertakings and issued warnings regarding the unfair practices.



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<https://go.gov.sg/purexygen-practices>

SPOTLIGHT

PAUSE ORDERED FOR FOOD DELIVERY DEAL

Proactive action to ensure market remained open and contestable

On 2 Feb 2024, CCCS 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”), in relation to the possible acquisition by Grab of Delivery Hero in Southeast Asia, including Singapore.

CCCS had reason to suspect that such a deal might lead to a substantial lessening of competition in the market for online food ordering and delivery (“OFOD”) services in Singapore. The IMDs were aimed at ensuring that the market remained open and contestable until the completion of CCCS’s investigation.

The IMDs ceased to be in effect from 23 February 2024, following the abandonment of the potential transaction. CCCS is continuing to monitor market practices and will take necessary action to protect the market against anti-competitive mergers or acquisitions.



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<https://go.gov.sg/imd-grab-deliveryhero>

COLLABORATIONS FOR SUSTAINABILITY

Guidance note clarifies how businesses can cooperate without harming competition

On 1 Mar 2024, CCCS issued an Environmental Sustainability Collaboration Guidance Note (“ESCGN”) to provide businesses with greater clarity on pursuing collaborations without harming competition.

The ESCGN covers examples of collaborations that would typically not be harmful to competition, as well as conditions under which competition concerns are less likely to arise and how businesses can minimise such concerns. CCCS will also assess whether potentially anti-competitive collaborations may still proceed if they may benefit society at large, such as by reducing adverse environmental impact.

For businesses seeking legal certainty, CCCS has introduced a streamlined notification process to provide quicker assessment, in support of Singapore’s whole-of-nation efforts to realise its environmental sustainability goals.

The full ESCGN, along with a summary brochure, is available on CCCS’s website at <https://go.gov.sg/cccs-escgn>.



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<https://go.gov.sg/env-sustainability-guidance>

SPOTLIGHT

INDIAN AIRLINES DEALS GIVEN NOD

Conditional approval given after CCCS accepts commitments

CCCS has granted conditional approval of three transactions involving Air India Limited (“Air India”), Singapore Airlines Ltd (“SIA”) and Tata SIA Airlines Ltd, operating under the brand name “Vistara”.

The transactions encompass Talace Private Limited’s (“Talace’s”) acquisition of Air India, the subsequent merger of Talace and Vistara into Air India and SIA’s acquisition of 25.1% of Air India, as well as the proposed commercial cooperation between Air India and SIA in providing scheduled air passenger transport services between Singapore and India.

CCCS identified competition concerns, particularly regarding the majority market shares held by the involved parties for direct flights on four routes between Singapore and India. CCCS also found that price and capacity coordination between them would significantly restrict competition on the affected routes.

To address CCCS’s concerns, the parties proposed commitments, including maintaining capacity on the identified routes at certain levels, appointing an independent auditor to monitor compliance, and submitting interim reports to monitor compliance with committed capacity levels.

Following a market testing exercise and stakeholder feedback evaluation, CCCS accepted the commitments and approved the transactions.



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<https://go.gov.sg/sin-ind-transactions>

SPOTLIGHT

CLEAR SKIES FOR AIR FREIGHT

Merger in air cargo space receives go-ahead

CCCS has cleared the proposed acquisition by ANA Holdings Inc. (“ANAHD”) of Nippon Cargo Airlines Co., Ltd. (“NCA”) after assessing its competitive effects in the relevant markets for the provision of direct and indirect air cargo transport services between Singapore and Tokyo and vice versa.

The review concluded that the merger is unlikely to substantially lessen competition, as viable alternatives including competing airlines operate indirect flights on the relevant markets. Third-party feedback indicated that ANAHD and NCA are not the closest competitors and barriers to entry and expansion are not insurmountable. Competing airlines can also consider adding capacity at an opportune time.

Furthermore, coordination between competitors is difficult as the prices charged to customers are not transparent due to specific requirements that need a direct negotiation process between customers and suppliers. The availability of alternative suppliers and ease of switching by customers would also create commercial incentives for competitive pricing and disincentivising coordination.



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<https://go.gov.sg/ana-nippon-cleared>

TALKING POINT

SUMMARY BROCHURE FOR GUIDANCE NOTE ON ENVIRONMENTAL SUSTAINABILITY

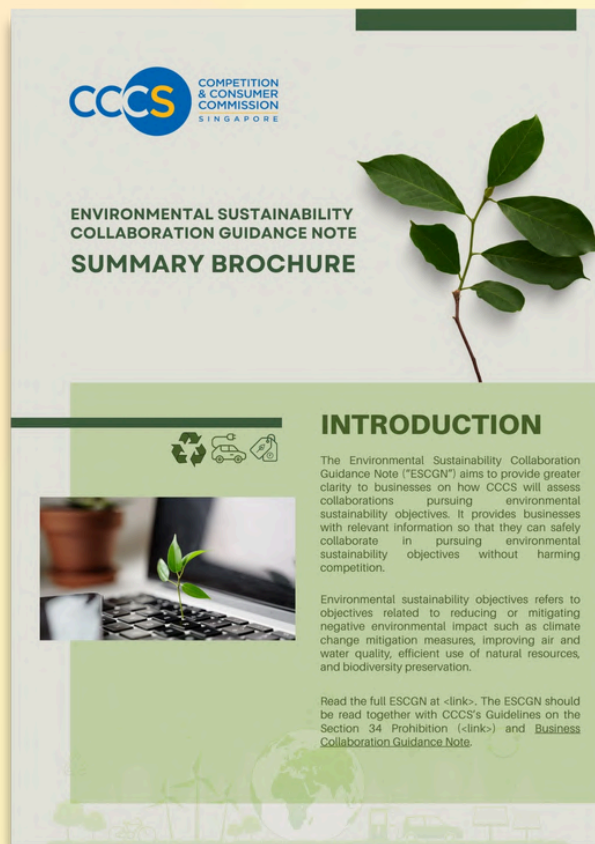
CCCS has published a Summary Brochure for the Environmental Sustainability Collaboration Guidance Note which offers readers a quick overview of the main points of the Guidance Note. Access the Summary Brochure [here](#).

There are 3 main Agreements in the Guidance Note that suppliers need be aware of:

- Agreements that are unlikely to raise competition concerns
- Agreements where competition concerns are less likely to arise if certain conditions are met
- Agreements where competition concerns have higher risk of arising, and a competition assessment should be conducted

The Summary Brochure also introduces the streamlined notification process, which is designed to provide quicker decisions by CCCS, should businesses wish to seek more legal certainty through notifying their collaboration to CCCS for guidance or decision.

Business associations keen on working with CCCS on outreach sessions to your members can [approach us](#).



TALKING POINT

CCCS OUTREACH TO SAAA@SINGAPORE

At SAAA@Singapore’s conference, “Environmental Sustainability & Networked Trade Platform 2024” on 23 April 2024, CCCS presented on the “CCCS’s Guidance Note on Environmental Sustainability Objectives Environmental Sustainability Collaboration Guidance Note”. The session provided SAAA@Singapore members with insights on how CCCS will assess such collaborations, how businesses can safely collaborate to pursue environmental sustainability objectives, and CCCS’s streamlined notification process for businesses seeking legal certainty.



23RD ICN ANNUAL CONFERENCE IN BRAZIL

On 17 May 2024, CCCS Chief Executive Mr Alvin Koh spoke at the Agency Effectiveness Working Group plenary session “Monitoring and Evaluating the Implementation of Agency Decisions” at the 23rd ICN Annual Conference in Sauipe, Brazil, where he shared CCCS’s judicial track record and how CCCS quantifies the benefits for our work.



INTERNATIONAL CONSUMER PROTECTION AND ENFORCEMENT NETWORK (ICPEN)

CCCS joined the International Consumer Protection and Enforcement Network’s (ICPEN) Internet Sweep held from 29 January to 2 February 2024. The ICPEN Internet Sweep is an ongoing ICPEN initiative to target and gather intelligence about fraudulent, deceptive, and unfair conduct online. The theme of the 2024 sweep focused on “dark patterns in subscription services”. CCCS officers, together with volunteers from the Public Service Retirees Network examined multiple websites and mobile applications for use of dark patterns.

CCCS also attended the ICPEN meetings held from 6 to 10 May in Gdańsk, Poland. At the roundtable discussion on Agency Effectiveness project and feedback from new partners, CCCS shared how ICPEN has helped CCCS to be more effective.



32ND MEETING OF THE ASEAN EXPERTS GROUP ON COMPETITION (AEGC)

CCCS participated in the 32nd Meeting of the ASEAN Experts Group on Competition (AEGC), held from 11 to 15 March 2024 in Bangkok, Thailand. The meeting discussed the progress of various ASEAN projects and initiatives, and discussed plans for developing the post-2025 ASEAN Competition Action Plan (ACAP).



INTERNATIONAL COMPETITION NETWORK (ICN) TECHNOLOGIST FORUM

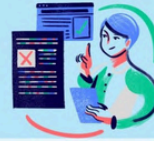
CCCS attended the International Competition Network (ICN) Technologist Forum held on 25 and 26 March 2024. Hosted by the US Federal Trade Commission, CCCS shared experiences with technology leaders from competition and consumer agencies worldwide. Participants of the forum also spoke on promoting digital and technology capacity in their agencies.



FALSE AND MISLEADING CLAIMS BY PUREXYGEN PTE. LTD.

CCCS's investigation revealed that Purexygen:

Made **false claims** that its water filters were tested by testing bodies in the sales kit used by its salespersons in their sales pitches to consumers.



Made **misleading claims** on the health benefits of alkaline or filtered water on Purexygen's website, Facebook and Instagram pages including claims that alkaline or filtered water can help prevent health conditions such as osteoporosis, acid reflux, blood pressure conditions and diabetes.

Misrepresented that its water faucet and water dispenser were free for a limited time in listings on Carousell, when the price benefit or advantage did not exist as the water faucet and water dispenser are provided to all Purexygen customers free of charge at all times.



Misrepresented to consumers in the **terms and conditions of service agreements** that sums paid for the activation fee and maintenance service package under direct sales contracts were non-refundable, and omitted to inform consumers that they have a right to cancel direct sales contracts under the Consumer Protection (Fair Trading) (Cancellation of Contracts) Regulations 2009 and any sums paid under the cancelled contracts would have to be repaid to the consumers.

Misled a consumer by giving false excuses on its persistent delay in providing the consumer's purchased water filters.



“

Suppliers in the water filtration system industry are reminded to review their marketing materials to ensure that any claims made to consumers are clear, accurate and substantiated. Suppliers should also review their business practices from time to time to ensure that such practices do not amount to unfair practices. Under the CPFTA, CCCS can seek court orders against errant suppliers who persist in unfair practices. - CCCS's Chief Executive, Ms Sia Aik Kor.

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