

# IN THE ACT

MAKING MARKETS WORK WELL

ISSUE 8 | OCTOBER 2020 - JANUARY 2021

## MURKY WATERS

3 contractors fined for rigging bids in tenders for maintenance of swimming pools & other water features

## THE ABCs OF ADVERTISING

ABC Bargain Centre, Valu\$ & ABC Express cease "Closing Down Sale" & "Fire Sale" ads

## DEAL OR NO DEAL

Expedia Singapore ceases false claims on "Daily Deals" promotions

## DIRECTIONS LIFTED

CCCS releases Directions on Grab

## UBER APPEAL DISMISSED

S\$6.5m fine is upheld by the Competition Appeal Board





**SIA AIK KOR**  
CHIEF EXECUTIVE  
COMPETITION AND CONSUMER COMMISSION OF SINGAPORE

CCCS is pleased to usher in the new year with readers of In The Act. In this issue, we cast the spotlight on key cases that CCCS successfully concluded over the past few months.

In December 2020, CCCS issued an Infringement Decision ("ID") against three businesses for bid rigging of tenders for swimming pools and other water features. The bid rigging conduct removed competitive pressure between the Parties to submit their best offers to potential customers and created the false impression that the bids submitted were the outcome of a competitive tender process when it was not.

Another case in November 2020 led to the operator of the Expedia Singapore website ceasing its false claims on promotions, following our investigations. ABC Bargain Centre, Valu\$, and ABC Express have also ceased the use of "Closing Down Sale" and "Fire Sale" advertisements from 30 September 2020 following discussions with CCCS.

New developments were also seen in the ride-hailing market. In November 2020, CCCS lifted the directions imposed on Grab as part of our ID in 2018 on the Grab-Uber merger, following the commencement of the Point-To-Point regulatory framework administered by the Land Transport Authority and the Public Transport Council.

In January 2021, the Competition Appeal Board dismissed the appeal by Uber against CCCS's ID, reinforcing the message that mergers which substantially lessen competition are prohibited and that while

Singapore has a voluntary notification merger regime, this does not mean that there are no risks to parties proceeding with a merger before first notifying CCCS.

The third edition of the E-Commerce Competition Enforcement Guide - published by Global Competition Review - included an article contributed by CCCS sharing Singapore's perspective on the rise of e-commerce, disruptive technologies and big data. GCR and MLex also published special reports on CCCS, our regulatory priority areas and the challenges faced during the COVID-19 crisis.

We would like to extend our heartiest congratulations to the winners of the 4th CCCS-ESS Essay Competition. A record-breaking 134 submissions were received with many high-quality essays submitted on the topic.

I am happy to welcome CCCS's new Chairman Mr Max Loh, Managing Partner (Singapore & Brunei), Ernst & Young, as well as new Commission members - Ms Agnes Koh, Chief Risk Officer, Singapore Exchange, Ms Chandra Mallika, Chief Operating Officer (Asia Pacific) & Deputy Chief Country Officer, Deutsche Bank (Singapore), Mr Jaspal Singh, Senior Research Fellow, Institute of Policy Studies, and Deputy Attorney-General Mr Hri Kumar Nair - who joined us in 2021. I would also like to take this opportunity to thank Mr Aubeck Kam for his leadership and guidance as Chairman of CCCS for the past six years.

I hope you enjoy this issue of In The Act. Continue to stay safe in 2021 as we keep up the fight against COVID-19.

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## ABOUT CCCS

- 3 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 (Cap. 50B) 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 (Cap. 52A) 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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## CONTACT US:

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- Hotline: 1800 325 8282





# SPOTLIGHT



Any business that is approached to join in anti-competitive agreements should immediately reject the approach and publicly distance itself from any such discussions. Any business that is currently involved in a cartel should consider approaching CCCS to make a leniency application as soon as possible.

Under the leniency programme, the first business to come forward and provide evidence of the cartel activities before CCCS commences a formal investigation will be given a full waiver of the financial penalty.

Businesses who admit liability for their infringing conduct under the Fast Track Procedure will be eligible for a reduction of their financial penalty.

Ms. Sia Aik Kor  
Chief Executive, CCCS

## MURKY WATERS

### 3 contractors fined for rigging bids in tenders for maintenance of swimming pools & other water features

In December 2020, CCCS issued an Infringement Decision against three businesses CU Water Services Pte. Ltd., Crystalene Product (S) Pte. Ltd. and Crystal Clear Contractor Pte. Ltd. for infringing section 34 of the Competition Act.

They were fined a total of \$419,014 for engaging in bid-rigging conduct relating to tenders called for the provision of maintenance services for swimming pools, spas, fountains and other water features. Affected developments included condominiums and hotels in Singapore.

CCCS's investigation revealed numerous instances of bid-rigging conduct between (i) CU Water and Crystalene, and separately between (ii) CU Water and Crystal Clear, in tenders called by privately owned developments.

The bid rigging conduct involved a systematic pattern of either business requesting a support quotation from the other business, where the support quotation was intended to be priced higher than the requesting business's own bid. Often, the requesting business also specified a price for the supporting business to quote.

Crystalene and Crystal Clear applied for leniency shortly after unannounced inspections were conducted at their places of business.



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

Scan or click to learn more about the CCCS Leniency Programme



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

Scan or click to read more about the case

## WHAT IS BID RIGGING?

Two or more suppliers/purchasers collude on bid submission for tenders. They may take turns to win a tender by agreeing on terms in a bid submission, or not participate in certain tenders after agreeing on who should win the tender.

Impact? Suppliers do not genuinely compete, resulting in customers not getting the best offers which a competitive process should provide.



### WATCH OUT FOR SIGNS OF POSSIBLE BID RIGGING:



#### SIMILARITIES IN BIDS

- Same text errors in bid documents
- Same text when one would expect the text to be different
- Different bid submissions created by the same author
- Bids submitted from same IP address
- Insufficient details submitted for tender evaluation



#### ODD PRICE DIFFERENCES

- Unexplained bid price increase from the same bidder as compared to past similar tenders
- Large price differences between winning and losing bids with little difference in quality



#### 'FISHY' BUSINESS BEHAVIOUR

- Successful bidder subcontracts to losing suppliers that submitted higher bids
- Bidders suggest they know competing bidders' prices or identities



#### FOR TENDER DESIGN

- Research the industry, including suppliers, goods & services, prices and trends
- Avoid unnecessary tender restrictions, so as to allow more suppliers to participate
- Define requirements clearly, specify desired outcomes
- Require bidders to declare any relationships with entities that may be competing bidders, and that bids submitted were determined independently
- Include a warning to bidders about the penalties for bid rigging





## DIRECTIONS LIFTED

### **CCCS releases Directions on Grab following commencement of Point-To-Point Transport Regulatory Framework with effect from 20 November 2020**

On 24 September 2018, CCCS issued an Infringement Decision (“ID”) against Grab and Uber in relation to the sale of Uber’s Southeast Asian business to Grab for a 27.5% stake in Grab in return which infringed section 54 of the Competition Act.

Together with the ID, CCCS issued Directions to lessen the adverse impact of the merger on drivers and riders, and to keep the market open and contestable. The Directions sought to maintain Grab’s pre-merger pricing, pricing policies and product options in the ride-hailing platform services market and to remove all exclusivity obligations imposed by Grab on drivers and taxi fleets in Singapore.

Since the commencement of the Point-To-Point Transport Regulatory Framework (“P2P Regulatory Framework”) on 30 October 2020, companies such as Tada Mobility (Singapore) Pte Ltd, Gojek, Grab, ComfortDelgro and Ryde have been awarded Ride-hail Service Operator Licences (RSOLs). Other existing taxi operators have also been issued limited RSOLs to provide call booking services.

As a result, there are a number of operators in the P2P sector today. The P2P Regulatory Framework administered by the Land Transport Authority and the Public Transport Council ensures that all licensed operators cannot prevent their drivers from driving for other operators. The regulatory framework also ensures that P2P fares are transparent and clearly communicated to commuters, while leaving fare levels to be determined by market forces.

With a sectoral regulatory framework now in place, CCCS considers it timely to release the Directions imposed on Grab as the issues identified are more appropriately considered and addressed within the context of the sectoral regulatory framework.

[Scan or click to read more](https://go.gov.sg/grabdirectionslifted)



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

# SPOTLIGHT



## DEAL OR NO DEAL

### Expedia Singapore ceases false claims on "Daily Deals" promotions

BEX Travel Asia Pte Ltd, the operator of the Expedia Singapore website, has ceased its false claims and undertaken to not engage in any further unfair practices in relation to the validity periods of its "Daily Deals" promotions with effect from 12 November 2020.

These false claims constituted unfair practices which breached section 4(b) of the CPFTA.

In April 2019, CCCS commenced an investigation under the Consumer Protection (Fair Trading) Act ("CPFTA") in relation to the "Daily Deals" promotions offered by BEX on the Expedia Singapore website at [www.expedia.sg/dailydeals](http://www.expedia.sg/dailydeals) and through electronic direct mailers to consumers.

These "Daily Deals" promotions involved the listing of certain "Daily Hotel Deals" and "Daily Package Deals", which BEX represented as "Hot

deals for 24hrs only!" that would expire at 11.59 pm in Singapore time on each calendar day.

However, there were at least 55 "Daily Deals" offers where the promotional prices remained the same after 11.59 pm. Such false claims mislead consumers into believing that there is a price benefit which is only available for a limited period, thus creating unwarranted pressure or a sense of urgency for consumers to make an immediate purchase.

Another unfair practice was the "Hot deals for 24hrs only!" offers which expired in less than 24 hours, which meant that such deals were available for a shorter time period than represented. The false claims on promotions by BEX took place since 2016 and had ceased as at October 2019.

Scan or click to  
read more



<https://go.gov.sg/dealornodeal-expedia>



# False Claims on Validity Period of Promotions



## Price Benefit & Scarcity

Misleads consumers into believing that promotional prices will only be available for a specified period when they will be available beyond that



## False Sense of Urgency

Creates a false or unwarranted sense of urgency for consumers to make hasty purchases



## Unfair Advantage for Errant Suppliers

Gives the errant supplier an unfair advantage over other suppliers who do not make misleading representations on discounts or promotion periods

## GOOD PRACTICES FOR SUPPLIERS WHEN OFFERING PROMOTIONS



Ensure that discounts for goods & services are genuine



State time period of discounts clearly and prominently



Ensure terms and conditions which apply to advertisements are stated clearly and prominently



Ensure information published is accurate, regardless of whether you are the promoter or supplier of goods and services





## THE ABCs OF ADVERTISING

### ABC Bargain Centre, Valu\$ & ABC Express cease "Closing Down Sale" & "Fire Sale" ads

The owners and operators of "ABC Bargain Centre", "Valu\$", and "ABC Express" Retail Outlets have voluntarily undertaken to cease the use of "Closing Down Sale" and "Fire Sale" advertisements at all Retail Outlets, as from 30 September 2020. They had earlier approached CCCS in 2019 to discuss certain advertisements in the Retail Outlets, particularly, advertisements bearing the language "Closing Down Sale" and "Fire Sale" that were displayed at these retail outlets.

Advertisements bearing such language convey the impression that the reason for the discounted price is due to impending closure of the business, and that the discounted price would only be available for a limited period of time. As the "Closing Down Sale" and "Fire Sale" advertisements were displayed continuously at the Retail Outlets without any end date, CCCS is of the view that such advertisements can mislead

consumers into believing that there is a price benefit, and the benefit would only be available for a limited period.

Advertisements which mislead consumers constitute an unfair practice in breach of the Consumer Protection (Fair Trading) Act (Cap. 52A) ("CPFTA").

CCCS accepted the voluntary undertakings by the businesses noting their co-operation to ensure its advertising practices comply with the CPFTA. The businesses have also undertaken to use all reasonable efforts to notify and ensure that all franchised Retail Outlets trading as "ABC Bargain Centre" and "Valu\$" adhere to the obligations.

Scan or click to  
read more



# Using “Closing Down Sale” and “Fire Sale” Advertisements

when not ceasing operations or in financial distress



Misleads consumers into believing there is a genuine price benefit and scarcity for the products offered



Creates false or unwarranted sense of urgency in consumers to make hasty purchases



Gives the errant supplier an unfair advantage over other suppliers who do not make misleading representations of discounts or promotion periods

## Good Practices for Retailers on Offering Discounts:



Use genuine previously offered prices when making comparisons



Record evidence of past sales and prices

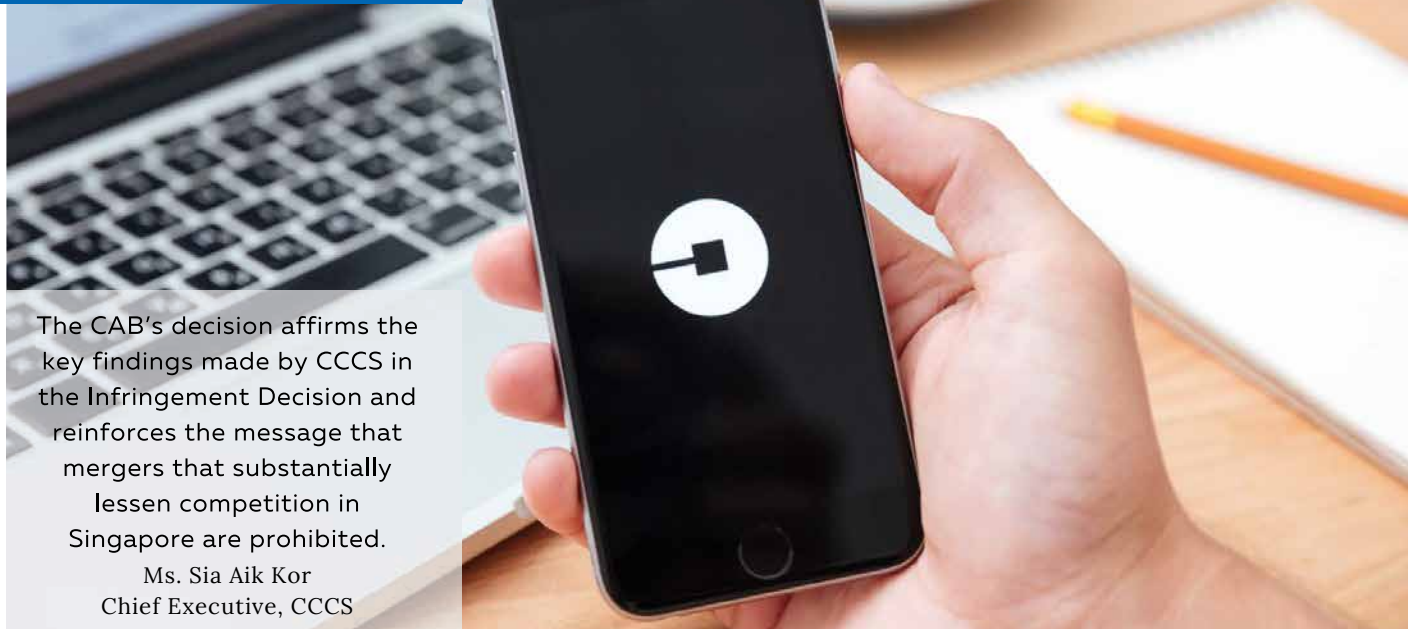


State time period of discounts clearly and prominently



Advertise 'Closing Down Sale' only when the retail outlet is genuinely ceasing operations





The CAB's decision affirms the key findings made by CCCS in the Infringement Decision and reinforces the message that mergers that substantially lessen competition in Singapore are prohibited.

Ms. Sia Aik Kor  
Chief Executive, CCCS

## UBER APPEAL DISMISSED

### Competition Appeal Board upholds CCCS's decision against Uber for anti-competitive merger with Grab

The Competition Appeal Board ("CAB") has dismissed the appeal by Uber against the decision of the CCCS that Uber's sale of its Southeast Asian business to Grab for a 27.5% stake in Grab resulted in a substantial lessening of competition ("SLC") in the ride-hailing platform market in Singapore and infringed section 54 of the Competition Act.

The CAB noted that while Singapore has a voluntary notification merger regime, this does not mean that there are no risks to parties proceeding with a merger before first notifying CCCS.

Where the merger is irreversible, as was the case for Uber, the merger parties run not just the risk of infringing section 54 of the Competition Act, but also the further risk that any commitments they may subsequently offer (to remedy, mitigate or prevent any SLC or any adverse effects that

result or may result from the completed merger) may be rejected by CCCS as inadequate or inappropriate.

Significantly, the CAB held that CCCS could, when exercising its discretion whether to accept commitments, consider the need to deter businesses from engaging in anti-competitive practices. Instead, CCCS could decide to issue directions to the merger parties, including imposing financial penalties. The CAB made clear that this was open to CCCS even if the commitments offered by the merger parties are in fact sufficient to remedy or prevent any SLC arising from the merger.

Scan or click to  
read more



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

# SHOWCASE

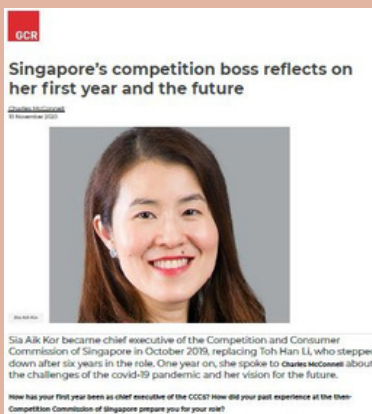
## SIA AIK KOR SPEAKS TO MLEX ABOUT HER ROLE AS CHIEF EXECUTIVE, CCCS

Singapore had no competition law when an elective course on antitrust caught Ms Sia's interest while taking her master's degree at Harvard University. By the time she went back home, though, the country was getting ready to establish the competition commission that she would help shape and now leads.

Scan or click to read more



<https://go.gov.sg/mlexciv/2020>



## SINGAPORE'S COMPETITION BOSS REFLECTS ON HER FIRST YEAR AND THE FUTURE

Sia Aik Kor became chief executive of CCCS in October 2019. One year on, she spoke to Charles McConnell of the Global Competition Review (GCR) about the challenges of the covid-19 pandemic and her vision for the future.



<https://go.gov.sg/gcr06n/2020>

Scan or click to read more

## GCR INSIGHT: E-COMMERCE COMPETITION ENFORCEMENT GUIDE (THIRD EDITION)

Singapore's perspectives in the rise of e-commerce, disruptive technologies and big data are covered in this Guide published by the Global Competition Review.

Scan or click to read more



<https://go.gov.sg/gcrgovernance/guide3rd>





# TALKING POINT

## RESULTS OF THE CCCS-ESS ESSAY COMPETITION 2020

CCCS COMMISSION OF CONSUMER PROTECTION

ESS ECONOMIC SOCIETY OF SINGAPORE

### CCCS-ESS Essay Competition 2020

Topic: Free market and Buyers Beware? Where are we today and what is the optimal level of government intervention to protect competition and consumers in Singapore?

[View the winning entries](#)

1st \$3000

2nd \$2000

3rd \$1000

Merit x3 \$300

The 4th run of the CCCS-ESS Essay Competition successfully concluded on 30 June 2020. This year's topic, "Free Market and Buyers Beware? Where are we today and what is the optimal level of government intervention to protect competition and consumers in Singapore?" required contestants to critically analyse the extent and nature to which the government should intervene in markets today to ensure they function well to meet both economic and social objectives.

Specifically, participants were encouraged to explore if the current competition and consumer protection laws and policies are sufficient to address market failures, while preserving the competitive process needed to promote efficiency and innovation, given rapid technological changes and the rise of digital economy.

134 submissions were received across both 'Open' and 'School' categories. The judging panel comprised CCCS Chief executive, board members and representatives from the Economic Society of Singapore (ESS).

## OPEN CATEGORY

### 1st Prize (\$3000)

Mr Goh Kyi Yeung (Columbia University)

### 2nd Prize (\$2000)

Mr Low Jia Rong (National University of Singapore)

### 3rd Prize (\$1000)

Mr Choo Jun Kai (Allen & Gledhill LLP)  
& Ms Siow Xian Qi Natalie (LVM Law Chambers LLC)

### Merit (\$300)

Ms Shirley Yong Woon Yee

Mr Lee Jia Ming & Mr Yeo Jiong Han (University of California, Berkeley)

Ms Valerie Chuang Zhen Jin (University of Cambridge)

## SCHOOL CATEGORY

### 1st Prize (\$3000)

Mr Lee Chong Dao, Joshua & Mr Khaw Wei Yi, Joseph (Recently completed NS)

### 2nd Prize (\$2000)

Ms Fiona Xiao Jingyi & Mr Wang Dingzheng (Raffles Institution)

### 3rd Prize (\$1000)

Mr Ling Young Loon (NS - SAF CSS Command)

### Merit (\$300)

Ms Peng You Yun & Ms Chang Yu Qing (Dunman High School)

Mr Oh Ming Song & Mr Choo Kai Jie Daniel (Currently serving NS)

Mr Kenneth Poh & Ms Megan Yeo Shu'en (Raffles Institution)

*Congrats!*

**TO THE  
WINNERS**

Scan or click to read  
the winning essays



<https://go.gov.sg/cccesessay2020results>



# BLUEPRINT

## ASEAN REGIONAL CONSUMER PROTECTION INFORMATION CAMPAIGN

### ADVERTISEMENTS INFLUENCE MANY OF OUR PURCHASING DECISIONS, BUT THEY CAN BE MISLEADING



#### Common types of misleading advertisement:

#### 1 Incomplete or hidden information

\*Side effect: Can cause skin irritation and inflammation.



#### 2 Exaggerated features



#### 3 Unproven benefits



#### 4 False safety or "green" claims



#### 5 Hidden fees



Consumers have the right to accurate and clear information and can also demand more detailed explanation from the businesses.

Get to know some of the misleading advertisements that can affect your purchasing decisions as a consumer.



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

Scan to view the full infographics



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

Watch the video to learn more.

### CONSUMERS HAVE THE RIGHT TO COMPLAIN AND GET REDRESS



#### As a consumer, you can file a complaint by:

#### 1 Directly approaching the business



#### 2 Consulting with relevant institutions or bodies(\*)



(\*) e.g. consumer protection agencies, sectoral authorities, consumer associations

#### 3 Bringing your claim to an alternative dispute resolution body or the court



Consumers have the right to complain and seek compensation when we experience harm or loss caused by goods or services that do not fulfill certain expectations.

Find out more on your rights to seek redress.

#### Common types of redress:

#### 1 Refund



#### 2 Repair



#### 3 Replacement



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

Scan to view the full infographics



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

Watch the video to learn more.