

A black and white portrait of a woman with long, dark, wavy hair, smiling and standing with her arms crossed. She is wearing a dark blazer and a watch on her left wrist. The background is a solid dark grey.

Singapore's Antitrust Original

Sia Aik Kor tells MLex about her role in helping set up the country's competition commission, and explains its regulatory priorities, regional ambitions and proactive approach to the Covid crisis.

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INTERVIEW

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All stories published on Nov. 19, 2020

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Serendipity and passion have shaped Singapore's top competition regulator

Singapore had no competition law when an elective course on antitrust caught Sia Aik Kor'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.



When asked about how she got into the world of antitrust, Singapore's top competition regulator, Sia Aik Kor, told MLex in an interview: "Maybe call it serendipity."

The 46-year-old's love affair with competition law began in the fall of 2003, within the storied halls of Harvard University where she had taken up her master's degree in law.

An elective on antitrust caught her attention, because the subject was new to her. Singapore had no competition law at the time, and it wasn't part of the coursework at the London School of Economics in the mid-1990s when she was taking her undergraduate law degree. "To me, it was just a new area of that law that I could get my teeth into," she recalled in an exclusive interview with MLex. "I think it's quite fascinating — the two disciplines coming together to achieve a better outcome. That was what attracted me to the subject."

She didn't know that by the time she finished her degree and returned to Singapore the following year, the government would already be moving the country's Competition Act into legislation. "And they were looking for lawyers to staff the commission," she said. "So, I thought to myself, what a wonderful opportunity to be able to practice a new area of the law which I had just learned ... So I put up my hand."

It was in 2005, two years after choosing antitrust as an elective, that Sia found herself as the first director of legal and enforcement of what was then known as the Competition Commission of Singapore, or CCS. "That's how I began my love affair with CCS," she said.

FULL CIRCLE

In that pioneering role, the relatively young lawyer was able to play a key role in helping shape the country's nascent antitrust regime. Over the next five years, she would put in place guidelines on key provisions of the new law to give businesses clarity on how the new regulator would implement it.

She would oversee the issuance of the first infringement decision against a cartel — over S\$260,000 (around \$190,000 today) in total penalties on six pest-control companies found to have colluded to submit bids for a number of projects, including for Raffles Hotel, Alexandra Hospital and Temasek Junior College.

She would also work on the amendments to the law in order to implement merger provisions.

Although she spent almost a decade after that



working on government contracts in the civil division in the Attorney-General's Chambers, helping to structure deals in a way that would protect the government's interest, and in the insolvency and public trustee's office, administering the estates of insolvent persons or companies, antitrust eventually came calling again.

In 2019, the government approached her to consider taking the helm of the now-expanded regulator — the Competition and Consumer Commission of Singapore, or CCCS.

"While the agency may have grown in size and taken on additional roles, I felt a sense of familiarity when I returned to CCCS. My past stint at the then-CCS also meant that I have many friends here which has made my transition and working as a management team seamless from the start," she said.

HER APPROACH

That five-year stint at CCS was of course useful not just for the friends and familiarity that welcomed Sia's return to the world of antitrust. "I'm actually very, very

but I think as a matter of being a responsible regulator we do need to walk through the steps of: If that were to happen, what should we do, so that we're not caught on the back foot?"

This is perhaps why, when the Covid-19 pandemic caused massive economic disruptions, the CCCS came out with guidelines for business collaborations even without companies inquiring or asking for it.

This is also perhaps what will guide Sia as she leads the commission in drafting its new strategic framework for the next five years.

LOVE AFFAIR

Call it fate or serendipity, but when Sia told MLex about how she and antitrust had been brought together, her smile widened and she became visibly more excited, as she explained how much she enjoys her job.

Part of it is because of how intellectually stimulating the work is. "The intellectual stimulation from having to problem solve in a very dynamic economy is also very challenging and rewarding at the same time," she said.

'In secondary school, I did a text — William Golding's 'Lord of the Flies' — which shows that if there are no constraints, [people] will do evil. As a grown up, I've probably moved from that. I won't say that that's been the stance that I take, but I think as a matter of being a responsible regulator we do need to walk through the steps of: If that were to happen, what should we do, so that we're not caught on the back foot?'

grateful for that first stint in CCS almost a decade ago, because I think it gave me perspectives in terms of how to implement and enforce competition law," she said.

But Sia isn't only drawing from decade-old experiences to inform her regulatory approach. Her time as a public trustee, she said, exposed her to how the wider economic system works and flows. Even the type of behavioral insight books she reads during her free time help. "[The books] help me to understand society, how society and people work much better," she said.

And what do the books tell her about the behavior of entities that should be regulated? "In secondary school, I did a text — William Golding's 'Lord of the Flies' — which shows that if there are no constraints, [people] will do evil. As a grown up, I've probably moved from that. I won't say that that's been the stance that I take,

And part of it is how rewarding it is. "I think I do have a very good team at the CCCS and working together with them to improve markets in Singapore I find to be very meaningful and purposeful," she added.

The 70-plus-person team at the commission, she said, is very passionate about doing what it can to address competition issues in Singapore. And they, in turn, have been amazed at how the mother of four has been able to juggle the demands of the job, while even finding time to run, cycle and swim.

"I hope I'm not speaking too soon," she laughed. "Maybe the difficult times are ahead. But I feel that with a good team, and if we put all hands on deck and work together, I feel that this is very meaningful work that we're doing. The passion, I think, really carries us through." ■

Singapore's initiative to boost antitrust cooperation within Asean endures

The Covid-19 pandemic may have derailed moves towards stronger regional cooperation in Southeast Asia over the past year, but the need for competition regulators to talk to one another remains a priority for Singapore's antitrust chief. But Sia Aik Kor admits that harmonization is unlikely for a regional grouping like Asean, at least in the medium term.

Sia Aik Kor has big goals for regional cooperation. As the chief executive of the most mature antitrust regulator in Southeast Asia, she wants the heads of competition commissions within the Association of Southeast Asian Nations, or Asean, to be able to meet regularly.

She wants the Competition and Consumer Commission of Singapore, or CCCS, to be able to share its thinking on more complex issues involving digital markets with its counterparts in the region. Beyond Southeast Asia, she was even looking forward to hosting a meeting in Singapore among top-level East Asian antitrust officials, before the Covid-19 pandemic derailed those plans.

"Strong regional cooperation is a priority for us," Sia told MLex in an exclusive interview. "It may not seem so in this past year because we've been so concentrated on domestic issues, but the work is carrying on."

Next year, she said she hopes the planned East Asia top level officials meeting can proceed — in person — to discuss and exchange insights on competition law and enforcement.

"This will benefit competition agencies in the region, because the Covid-19 pandemic has impacted competition law enforcement in many different ways in the region," she said.

"Different competition agencies have adopted varying responses to the pandemic, so greater coordination among the competition agencies will be critical in minimizing uncertainty to businesses."

LEADING THE WAY

The CCCS has been an active advocate of greater regional cooperation and collaboration for years.

In 2017, it released a handbook to help Asean's 10-member governments and businesses address and navigate competition law issues relating to e-commerce.

In 2018, when Singapore helmed the Asean Experts Group on Competition, or AEGC, an enforcers' network was launched to link case handlers — instead of high-level officials — to boost cooperation on cross-border cases.

The CCCS, led by Toh Han Li at the time, said cooperation on actual cases had been limited by disparate legal regimes and varying statutory safeguards for confidential information among Asean member states.

The AEGC also launched a regional cooperation framework on cooperating on competition cases that year, along with a set of guidelines in the form of the Asean Competition Compliance Toolkit.

In fact, the need for greater cooperation among the region's regulators was highlighted that same year by the regional merger between ride-hailing rivals Grab and Uber, which triggered reviews or investigations in Singapore, the Philippines, Malaysia and Vietnam.

Although there was some degree of cooperation among the regulators in that case, the CCCS said at the time that coordination and information exchange would have been carried out more quickly and effectively had the enforcers' network already been in place.

FOLLOWING THROUGH

This increased cooperation among Asean members is something Sia wants to build on.

"We've proposed to the AEGC to organize regular meetings and engagements among the heads of agencies in order to better coordinate regional policies relating to competition in Asean and also for us to be able to discuss areas of mutual interest," Sia said.



Sia wants the Competition and Consumer Commission of Singapore to be able to share its thinking on more complex issues involving digital markets with its counterparts in the region. Beyond Southeast Asia, she was even looking forward to hosting a meeting in Singapore among top-level East Asian antitrust officials.



The top official told MLex that the AEGC wants to see whether the commission can put out guidelines or a manual on digital markets in Asean to help further the thinking in this area.

“We’ve done the electronic platforms market study and we do hope to be able to share our thinking in terms of how to handle these issues with our Asean counterparts through forums such as the AEGC,” she said.

“If we are able to, we also hope to contribute and continue to drive AEGC projects to help advance the capabilities of Asean competition agencies in enforcing competition laws in relation to these complex and emerging issues.”

The CCCS, for example, can share its notes on an online food-delivery case concluded earlier this year with its counterpart in Thailand, which is also probing antitrust issues in the sector and drafting guidelines to regulate it.

HARMONIZATION

However, the lofty goal of regulatory harmonization — often cited as necessary to strengthen Southeast Asia’s overall attractiveness as an investment destination — continues to be out of reach. At least in the short to medium term.

“There’s really considerable diversity in terms of the economic development and legal regimes, and in the stage and maturity of the different competition regimes, in Asean,” Sia said.

“Asean is also not a supranational body. Each member-state actually retains sovereignty over the administration and enforcement of its competition law regime, and that reflects the current political reality and will likely be the case in the short term, in my view.”

In the meantime, the CCCS will focus on the more practical and achievable goal of improving cooperation and coordination in cross-border cases.

Increased cooperation and coordination, Sia said, “will contribute to promoting convergence and economic integration, which is really an outcome that all Asean member states are striving towards.”

“Strong regional cooperation is really one of our enduring initiatives and will continue to be so even in the next five years,” she said. ■

E-commerce platforms under Singapore's antitrust microscope

Barely a year after Sia Aik Kor took office, the Singapore antitrust regulator published a market study of the growing industry around “super apps” — an area that can be overlooked as US tech giants hog global regulatory attention. It found no current competition concerns, but that doesn't mean there won't be in the future, Sia says. And her commission is ensuring it's ready for that.

Digital platforms may have breathed a sigh of relief when the e-commerce market study into so-called super apps released by Singapore's antitrust regulator in September found no major competition concerns.

But that doesn't mean they should be complacent.

“The digital platform study is a snapshot at this point in time,” Sia Aik Kor, the chief executive of the Competition and Consumer Commission of Singapore, or CCCS, told MLex in an exclusive interview.

“So I wouldn't say that this would put us in the clear forever, but it does mean that, for the time being, we don't see any major competition concerns with regards to super apps.”

Super apps — e-commerce platforms that integrate a range of distinct products and services in one app, such as Grab, Lazada, Shopee, Carousell, Foodpanda and Amazon.com — are rising rapidly in Singapore and the rest of Southeast Asia. In a region where mobile phones are the main gateway to the Internet, these super apps account for a substantial chunk of Southeast Asia's e-commerce market pie, which is projected to triple to \$300 billion by 2025.

While most other major antitrust regulators have focused on the impact of the likes of Facebook

and Google, the CCCS is the first to conduct a comprehensive market study focused on the impact of these game-changing companies that provide a range of e-commerce services. “We're closely monitoring developments in this space,” the antitrust chief said.

PRIORITIZED WORKSTREAM

It's easy to see why the regulator is maintaining a watchful eye. With massive network effects at play and increasingly blurred lines around relevant markets, the potential competition concerns emerging from the fast-growing super-app trend needed proper scrutiny.

“We felt that this was not something that the other agencies had looked into and there was value in us looking into this,” Sia said.

The CCCS already had opportunities to examine different parts of the industry, such as during the controversial regional merger of ride-hailing firms Grab and Uber in 2018, or when antitrust complaints were filed against online food delivery service providers last year.

But these, of course, were not comprehensive. Meanwhile, the sector was growing and changing rapidly. Shortly after the market study began, however, the Covid-19 pandemic hit. As people were forced to stay and work and study at home, the adoption of e-commerce accelerated everywhere, including in Singapore.

A recent report by Google, Singapore sovereign-wealth fund Temasek and consultancy Bain & Company on Southeast Asia's digital economy shows e-commerce enjoyed a tremendous 87% growth between 2019 and 2020. In 2020, one out of every three digital service consumers in the region was new to the service.

Therefore, despite the challenges posed by the pandemic, the CCCS made sure it completed its study into super apps. “Even with the other workstreams that were coming on or were brought about by Covid-19, we felt that we had to deliver this piece,” Sia said.

BECOMING FUTURE-READY

Although the CCCS study didn't find any current competition concerns that needed to be probed or urgently addressed, it did recommend a raft of changes to CCCS's competition guidelines to make them better prepared for a future in which emerging questions — such as how to handle multi-sided markets and killer acquisitions — need to be more readily answered.

Do conglomerate mergers — those that involve





Grab, Lazada, Shopee and Foodpanda: examples of “super apps” making waves in Southeast Asia.

firms that operate in different product markets — raise competition issues? Is self-preferencing a form of abusive conduct? How do you define the relevant market when the companies involved compete in multiple market segments and offer distinct products and services?

All these and more are covered in the planned amendments, which span the regulator’s guidelines on intellectual property rights, market definition, abuse of dominance, mergers and enforcement. Sia said they could be finalized by the end of the year or early next year, after they process the comments received from interested parties.

The amendments don’t draw only from the market study, but also from the CCCS’ experience in applying the act since the guidelines were last revised in 2016.

These include more than 20 merger cases, the Grab-Uber case — which is still under appeal — and investigations such as the one on the online food delivery service providers.

“These have helped us identify areas where the guidelines can be further improved or clarified to ensure that businesses understand how we will administer and enforce the act,” Sia said

ACTIVE MONITORING

Informed by its in-depth market study and soon to be armed with updated guidelines — which any Singaporean antitrust lawyer knows are applied as if they are binding — the commission’s regular market surveillance could perhaps now better spot potentially anticompetitive deals, even if they’re small.

“For a voluntary system like ours, we can actually proactively investigate merger transactions — including killer acquisitions — that have not been notified, if we do find there are reasonable grounds to suspect an infringement has occurred or is likely to occur,” Sia said.

The commission will closely examine deals involving markets where innovation is an important feature of competition, Sia said.

“Even if the party that is an important innovator has a very small market share, the competition dynamics may actually change when there’s a merger,” she said. “So we flag that out.”

“The other thing we are monitoring very closely are mergers between digital platforms that are active in different market segments.”

Does this mean most tech companies would



probably have to notify the CCCS of their deals just to be on the safe side? Not really, according to Sia.

Singapore's voluntary merger notification system, which the regulator maintains is still more effective for the country than a mandatory regime, means that tech companies should first assess their deals to determine the overlapping markets where a substantial lessening of competition can arise, Sia said.

"We do have confidential guidance for mergers, and there are avenues for parties to approach us if there are concerns," she added.

BEYOND SUPER APPS

Super apps, of course, are just one aspect of the e-commerce market and the commission is keeping an eye on other potential issues, including ones that can affect the likes of Google and Facebook.

For example, Sia said they have been taking note of developments around the world related to moves to require the tech giants to pay for news. "We are definitely monitoring this, but this is probably something that we have to work on with our colleagues in other parts of government," she said.

The CCCS is also looking at the work of regulators in other jurisdictions, such as the European Commission, where the thinking is moving toward "the ex-ante sort of regulation, as opposed to competition more or less being an ex-post type of regulation."

All this will likely feed into the new strategic framework the Singapore regulator is currently drafting, which will broadly set out its key directions for the next five years. "It will take into account the relevant emerging trends and issues that will affect our operating environment in the next five years," Sia said. ■

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Singapore's antitrust chief finds a delicate balance in her agency's Covid-19 response

Just months into the job, Sia Aik Kor had to quickly adjust to changing realities amid the Covid-19 pandemic. But she says the stakes of ensuring competitive markets have never been higher.

The decision to give certain businesses a free pass on collaborating as Covid-19 wreaked havoc across the world was a significant one coming from Singapore's top antitrust regulator. But Sia Aik Kor appears certain her agency made the right call.

"I think exceptional times do call for some regulatory risk taking," Sia told a recent online conference, explaining the decision to suspend the rules to help businesses weather the storm.

As part of its response to the pandemic, the Competition and Consumer Commission of Singapore, or CCCS, also suspended commitments offered by two airline alliances relating to flight capacities and supported the government's decision to extend a shipping block exemption order that was set to be reviewed.

It would be inaccurate to look at these, though, and think the commission is relaxing its oversight.

Throughout the pandemic, the regulator hasn't shied away from probing anticompetitive behavior. It has imposed fines on three civil and electrical works contractors for bid rigging and raised antitrust concerns over potentially anticompetitive deals, like the London Stock Exchange's acquisition of Refinitiv.

But Covid-19 brought with it specific challenges that the commission had to address, while keeping in mind its mandate. "I think we won't deny the fact that the Covid-19 pandemic has posed exceptional challenges to the global economy, and Singapore is not spared," Sia explained in an exclusive interview with MLex.

"It's in times like this that the stakes of ensuring competitive markets have never been higher, and we need to continue to do our part to make sure markets remain open, contestable, competitive, and that our economy on a whole remains productive in order to facilitate economic recovery from the pandemic," she said.

FINE LINE

The commission's attempt to strike a balanced regulatory response to the pandemic is perhaps best seen in the details of the business collaboration guidance it released.

On one hand, there was a need to ensure businesses would be able to sustain the supply of essential goods and services to Singapore. But at the same time, it needed to guard against the risk of these collaborations leading to cartel-type behavior.

"We had to put in safeguards to ensure that businesses don't use this moratorium to engage in egregious anticompetitive activities," Sia said. "So, we had to exclude collaborations that involve price fixing, bid rigging, market sharing, output limitations. We also had to limit the duration of the moratorium. We say we will not investigate these kinds of collaborations provided they're short term. And this expires on July 31, 2021."

The result is a policy that lands somewhere in the middle of the wide spectrum of responses to Covid-19: On one end are those that have not released any guidance at all, creating uncertainty for businesses; and on the other are regulators like Indonesia's competition commission that have said even price fixing arrangements can be approved if needed to survive the pandemic, along with the Philippine government, which practically suspended merger reviews over two years.

Lawyers and businesses have so far welcomed Singapore's approach, although it's hard to say if any have actually taken advantage of it so far.

"From the feedback we've gotten, they've welcomed the guidelines, the clarity," Sia said.

JUGGLING WORKSTREAMS

This balance was also evident in how the CCCS adjusted its workstreams in response to the challenges created by the pandemic. The business collaboration guidance, for example, was supposed to be a more permanent set of guidelines on how companies can work together to gain efficiencies in a relatively small economy like Singapore's.

"So that was the original intent, and then Covid-19 >>>



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happened and we had to pivot to something that would respond to the situation much quicker," Sia said, adding that they plan to resume work on the permanent guidelines after the moratorium expires.

When the country implemented "circuit breaker" measures to control the spread of the pandemic, plunging retail sales exacerbated some of the longstanding issues between landlords and tenants, with tenants complaining of unequal bargaining power. The CCCS stepped in to make sure talks between the two sides to establish a fair tenancy framework were done "within the confines of competition law," and used that as an impetus to launch a market study into the sector.

Despite the new workstreams, the regulator also made sure to complete its market study on e-commerce platforms, given the hyper-acceleration of their use in Singapore. Sia also said her agency had managed to keep to its administrative timelines for merger notifications.

SETBACKS

But the upheaval caused by Covid-19 also led the regulator to set aside plans, such as a project to use technology and Big Data to better identify markets that have competition or consumer protection issues.

"Basically, we have recently developed an in-house, bid-rigging detection tool to identify tenders which are susceptible. It basically scans tender data and shortlist

tenders with high probability of bid rigging based on a few indicators, then we can further analyze these tenders," she said, adding that they hope to market it to government agencies for use in public procurement.

"We're also collaborating with the Government Technology Agency of Singapore to develop a text analytics tool to identify suspicious tender documents."

Because Sia was barely six months on the job when the pandemic struck, the inability to build relations with her counterparts and the regulator's stakeholders has perhaps been the biggest setback.

"I think there's something to be said about engagement, when we meet them face to face at the sidelines of physical events, where the exchange of views can happen on a more informal basis. We can build new relationships — especially for me, for example — or even deepen existing ones," she said.

"So those are the parts that we've not been able to do as much, or as well as we would have liked to."

But the choice of which workstreams to prioritize and which have taken a backseat clearly show what remains important for the commission. While recognizing that adjustments need to be made in response to changing realities, it was evident that CCCS' mandate was clear in Sia's mind. "We will not be less focused on competition issues, if it is actually needed to recover from this pandemic," she said. ■

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