



Competition
Commission
SINGAPORE

MEDIA RELEASE

17 August 2005

Competition Commission Consults on the Transitional Arrangements and the Appropriate Amount of Penalty

CCS allows business community more time to comply with new Act

1. Members of the business community who are reviewing their agreements to bring them into compliance with the Competition Act 2004¹ (Act) by the end of the year, will have more time to renegotiate and amend their agreements under the transitional arrangements that the Competition Commission of Singapore (CCS) will implement. The details of the transitional arrangements are included in a set of two draft guidelines that CCS issued today for public consultation.
2. The section 34 prohibition relating to anti-competitive agreements and the section 47 prohibition relating to abuse by a business of its dominant position will come into force on 1 January 2006.
3. The guideline on transitional arrangements² outlines how parties to agreements made on or before 31 July 2005 will have additional time to review these agreements and bring them into compliance with the Act.
4. The guideline on the appropriate amount of penalty³ sets out the basis on which the CCS will calculate financial penalties for infringements of the sections 34 and/or 47 prohibitions.

Public Feedback

5. This is the third set of guidelines issued by the CCS for public consultation. The first set of three draft guidelines on the *section 34 prohibition*, the *section 47 prohibition*, and *market definition* were finalised and issued on 29 July 2005. The second set of four draft guidelines⁴ on how the CCS will investigate and enforce infringements of the *sections 34 and/or 47 prohibitions*, CCS' leniency programme for 'whistleblower' cartel members and the procedure for notifying agreements or conduct for guidance or decision were issued on 26 May 2005 for public

consultation. The remaining guidelines will be issued for public consultation in the next few months. The CCS aims to complete the process by November 2005.

6. The consultation documents on the draft guidelines can be downloaded from the CCS website at www.ccs.gov.sg under the section "Guidelines" and the Government Online Consultation Portal at www.feedback.gov.sg. The closing date for submissions is on or before **noon on 16 September 2005**⁵.

7. The CCS, together with the Singapore Business Federation (SBF) will conduct outreach seminars on 30 August and 1 September 2005 for business associations, chambers, companies and businesses. Interested parties can contact SBF at events@sbf.org.sg or call 6827 6877 to register.

8. Please refer to [Annex A](#) for background information.

- End -

About the Competition Commission of Singapore

The CCS is a new statutory body established under the Competition Act 2004 on 1 January 2005 to administer and enforce the Act. Its mission is to promote healthy competitive markets that will benefit the Singapore economy based on sound economic principles applied objectively and consistently. For more information, visit www.ccs.gov.sg.

For media clarification, please contact:

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Annex A

Notes to Editor:

1. The Competition Act 2004 (Act) was passed in Parliament on 19 October 2004 and assented to by the President on 4 November 2004. The new law will improve Singapore's international competitiveness by enhancing the efficient functioning of markets in Singapore. The focus is on activities, that have an appreciable adverse effect on competition in Singapore and which do not have any net economic benefit. The Act is being implemented in phases:

Phase I - On 1 January 2005, the provisions establishing the Competition Commission of Singapore (CCS) were brought into force.

Phase II - On 1 January 2006, the provisions on anti-competitive agreements, decisions and practices; abuse of dominance; investigation, enforcement; appeal process; and miscellaneous areas will come into force.

Phase III - The remaining provisions relating to mergers and acquisitions will likely come into force at least 12 months after Phase II.

2. The draft ***Guideline on Transitional Arrangements*** outlines the transitional arrangements that will be provided for in the Transitional Period Regulations. The CCS will allow parties to agreements made on or before 31 July 2005 additional time, up to 30 June 2006, to review these agreements and bring them into compliance with the Act. This will apply not only to agreements in existence for more than 5 years prior to the Act's commencement, but all agreements made on or before 31 July 2005. Parties to agreements made on or before 31 July 2005 will also be given the option to apply to the CCS, before 1 July 2006, for a longer transitional period to effect compliance. Where the application so merits, the CCS will generally grant a transitional period of up to one year. The CCS will not impose a financial penalty during the aforementioned time periods.
3. The draft ***Guideline on the Appropriate Amount of Penalty*** sets out the basis on which the CCS will calculate financial penalties for infringements of the sections 34 and/or 47 prohibitions. This includes the factors that the CCS will take into consideration when imposing any financial penalty. It also sets out the policy objectives of the CCS in imposing any financial penalty.
4. The CCS is presently evaluating the submissions made by the public in response to its public consultation on the *Guideline on The Powers of Investigation, Guideline on Enforcement, Guideline on Lenient Treatment for Undertakings Coming Forward with Information on Cartel Cases and Guideline on Filing Notifications for Guidance or Decision*, which closed on 30 June 2005.

5. **Mode of Consultation:**

a. Written submissions are to be sent to the CCS through email **and** either by post/courier or by fax:

Email: CCS_Draftguidelines@ccs.gov.sg

AND

Post/Courier: Competition Commission of Singapore
5 Maxwell Road
#13-01, Tower Block
MND Complex
Singapore 069110
Attn: Director, Legal and Enforcement

Fax: (65) 62246929

b. Parties that submit comments should organise their submissions as follows:

- i. Cover page (including the information specified in sub-paragraph **d** of this consultation document);
- ii. Table of contents;
- iii. Summary of major points;
- iv. Statement of interest;
- v. Comments; and
- vi. Conclusion.

c. Supporting material may be placed in an annex. All submissions should be clearly and concisely written, and should provide a reasoned explanation for any proposed revision to the draft guidelines. Where feasible, parties should identify the specific paragraph of the draft guidelines on which they are commenting. In any case in which a party chooses to suggest revisions to the text of the draft guidelines, the party should state clearly the specific changes to the text that they are proposing.

d. All submissions should be made on or before **noon, 16 September 2005.** Submissions must be submitted in both hard and soft copies (in Microsoft Word format). Parties submitting comments should include their personal/company particulars as well as their correspondence address, contact numbers and email addresses on the cover page of their submissions.

e. The CCS reserves the right to make public all or parts of any written submission and to disclose the identity of the source. Commenting parties may request confidential treatment for any part of the submission that the commenting party believes to be proprietary, confidential or commercially sensitive. Any such information should be clearly marked and placed in a separate annex. If the CCS grants confidential treatment, it will consider but will not publicly disclose the information. If the CCS rejects the request for confidential treatment, it will return the information to the party that submitted it and will not consider the information as part of its review. As far as possible, parties should limit any request for confidential treatment of information submitted. The CCS will not accept any submission that requests confidential treatment of all, or a substantial part, of the submission.