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DREW & NAPIER LLC

LEGAL UPDATE

A DREW & NAPIER PUBLICATION

COMPETITION LAW UPDATE

PROPOSED INFRINGEMENT DECISION AGAINST EXPRESS BUS OPERATORS AND BUS ASSOCIATION

The Competition Commission of Singapore (the “CCS”) has issued 16 companies (mostly express bus service providers operating between Singapore and Malaysia) and a bus association with a Proposed Infringement Decision (the “PID”).

The PID relates to the suspected price-fixing of fares of express bus services operating between Singapore and a number of destinations in Malaysia. Price-fixing is a breach of section 34 of the Competition Act, which, among other things, prohibits agreements between competitors which prevent, restrict or distort competition within a relevant market in Singapore.

The PID contains factual information gathered by the CCS during the course of their investigations, and their reasons for suspecting a breach of the Competition Act. Whilst the PID does not represent a formal decision of the CCS, it is highly indicative of the CCS’ views at this point in time. The CCS’ final decision will be subject to its consideration of any representations made by the parties involved. The parties have been afforded six weeks to make representations.

Price-fixing is considered a “hard core” offence in Singapore. The CCS states, in its Guidelines to the Enforcement of Section 34, that price-fixing will, by its very nature, be regarded as appreciably restricting competition.

The CCS has to date only issued one previous enforcement decision in relation to a suspected breach of section 34 of the Competition Act. In January 2008, six pest control companies were found to have infringed section 34 of the Competition Act by engaging in “bid-rigging”, which is also considered a “hard core” offence. The financial penalties imposed in that case totalled approximately S\$263,000.

How to ensure compliance with the Competition Act

To limit potential exposure to competition law risks, companies are encouraged to carry out compliance audits. A compliance audit typically forms part of a compliance programme that is designed not only to review the current status of a company’s existing agreements and business conduct, but also provide the company and its staff with the knowledge and tools to ensure that it continues to be “competition-compliant”, through the use of training sessions and periodic self-assessment.

For more information on compliance audits, please refer to Drew & Napier LLC’s publication on Competition Law Compliance [here](#).

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Seeking leniency from the CCS

The leniency programme offered by the CCS is targeted at companies that have participated or are currently participating in cartel activities (and therefore liable for infringing section 34 of the Competition Act), but which are prepared to “blow the whistle” on the cartel in exchange for leniency from the CCS.

Depending on the timing at which the company provides the CCS with evidence of the cartel and the information provided, it may be granted complete immunity from financial penalties, if it is able to fulfil certain conditions set by the CCS. In seeking leniency from the CCS, speed is of the essence and it is critical to be the first member of a cartel to “make it through the door” -- after the first successful leniency applicant, subsequent applicants may only receive a reduction of up to 50% of the financial penalty.

The CCS has recently introduced the “Leniency Plus System” whereby cartel members who are under investigation for cartel activities are encouraged to provide information on their involvement in a separate and distinct cartel. If a company receives total immunity from or a reduction of up to 100% of the financial penalties in relation to the second cartel, the CCS would grant the cartel member a further reduction in the financial penalty in relation to the first cartel.

For more information on the latest revisions to the leniency programme, please refer to Drew & Napier LLC’s Legal Update on this topic [here](#).

If you wish to discuss how this update may potentially affect you, or simply wish to find out more about competition law compliance and details of the leniency programme, please feel free to contact the **Competition Law Practice Group**:

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The content of this article does not constitute legal advice and should not be relied on as such. Specific advice should be sought about your specific circumstances.

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