
CHAMBERS GLOBAL PRACTICE GUIDES

Cartels 2025

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**Singapore: Law and Practice
& Trends and Developments**
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Drew & Napier LLC



SINGAPORE



Law and Practice

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Drew & Napier LLC is one of Singapore's leading and largest full-service law firms. Its competition law and regulatory practice was established in 1999, and is the oldest and largest dedicated competition law practice in Singapore. Established six years before the enactment of the Competition Act in 2005, the experience of the practice has grown in tandem with the development of both national and sectoral competition laws in Singapore. The practice is the preferred competition law counsel of many

regional companies, multinational corporations, associations and government bodies, and regularly assists them on competition matters in Singapore and ASEAN member countries. The practice comprises lawyers that are cross-trained in competition law and economics, who are highly experienced and qualified in handling competition law matters both generally under the Competition Act as well as in the carved-out telecommunications, media, energy and postal sectors.

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1. Cartels Law and Regulation

1.1 Legal Bases

The [Competition Act 2004](#) (the “*Competition Act*”) is the primary competition legislation in Singapore. Section 34 of the Competition Act prohibits cartel activities (“*Section 34 Prohibition*”) namely, in respect of “*agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore*”.

1.2 Regulatory/Enforcement Agencies and Penalties

The Competition and Consumer Commission of Singapore (the “*Commission*”) is the statutory body established on 1 January 2005 to administer and enforce the Competition Act under the purview of the Ministry of Trade and Industry. From 1 April 2018, the Commission also assumed responsibility for administering the Consumer Protection (Fair Trading) Act 2003.

While cartel matters are adjudicated by the Commission, its decisions can be appealed to the Competition Appeal Board (the “*Board*”). In turn, a decision of the Board can be appealed to the General Division of the High Court on a point

of law arising from the decision, or any decision in respect of the quantum of financial penalty imposed. See [5.8 Judicial Review or Appeal](#) for details.

Where an infringement of the Section 34 Prohibition is found, pursuant to Section 69 of the Competition Act, the Commission has general discretion to give any directions it considers appropriate to stop the infringement and, where necessary, require such action to be taken as is specified in the direction to remedy, mitigate or eliminate any adverse effects of such infringement and to prevent the recurrence of such infringement. A direction may require parties to:

- modify or terminate the agreement that infringed the Section 34 Prohibition;
- enter into legally enforceable agreements designed to prevent or lessen the anti-competitive effects that have arisen;
- dispose of operations, assets or shares in undertakings in such manner as may be specified by the Commission;
- provide a performance bond, guarantee, or other forms of security on such terms and conditions as the Commission may determine; and/or

- where the infringement is committed intentionally or negligently, pay such financial penalty as the Commission may determine, which may not exceed 10% of a party's business turnover in Singapore for each year of infringement, up to a maximum of three years.

While there is currently no criminal liability for cartel conduct per se, criminal liability may arise in cartel investigations where, for example, undertakings or individuals obstruct the Commission in performing its duties or refuse to provide the information requested pursuant to the Commission's statutory powers.

Additionally, third parties who have suffered loss or damages due to a competition law infringement will have a private right of action to seek relief through civil proceedings. Such rights will only arise after the Commission has decided that the Section 34 Prohibition has been infringed and the appeal period has expired, or where an appeal has been brought upon the determination of the appeal. Private actions must be brought within two years from the date of the Commission's decision or from the determination of the appeal, whichever is later. Relief may be in the form of an injunction or declaration, damages, and such other relief as the court deems fit.

1.3 Private Enforcement

Under the Competition Act, there is no private right of action for challenging cartel behaviour or effects. Potential infringements of the Competition Act are investigated and decided by the Commission. However, complaints may be made to the Commission, and a formal investigation launched if there are reasonable grounds to suspect an infringement of the Section 34 Prohibition.

Third parties may bring a private right of action to seek relief from parties responsible for engaging in cartel behaviour after the Commission has made an infringement decision. See **1.2 Regulatory/Enforcement Agencies and Penalties**.

1.4 "Cartel Conduct"

As stated in **1.1 Legal Bases**, Section 34 of the Competition Act prohibits "*agreements between undertakings, decisions by associations of undertakings or concerted practices that have as their object or effect the prevention, restriction or distortion of competition within Singapore*". As Section 34 (2) of the Competition Act illustrates, agreements may have the object or effect of preventing, restricting or distorting competition within Singapore if they:

- directly or indirectly fix purchase or selling prices or any other trading conditions;
- limit or control production, markets, technical development or investment;
- share markets or sources of supply;
- apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; or
- make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations that, by their nature or according to commercial usage, have no connection with the subject of the contracts.

The illustrative list above is not intended to be exhaustive. As set out in the Commission's Guidelines on the Section 34 Prohibition, other examples of cartel activities are as follows:

- joint purchasing or selling;
- agreements to share information;
- exchanges of price information and/or non-price information;

- agreements restricting advertising; or
- standardisation agreements on technical or design standards.

In addition, the Section 34 Prohibition will apply only where agreements, decisions and concerted practices have, as their object or effect, the “*appreciable*” prevention, restriction or distortion of competition.

The Commission considers that arrangements between competing undertakings involving price fixing, bid rigging, market sharing, or output limitation will always be considered, by their very nature, restrictive of competition to an appreciable extent.

On 28 December 2021, the Commission also released the Business Collaboration Guidance Note (the “*Guidance Note*”), which supplements the Commission’s Guidelines on the Section 34 Prohibition. It clarifies the Commission’s position on the common types of business collaborations and provides guidance on how it will assess such collaborations in view of the Section 34 Prohibition. The seven common types of business collaborations covered in the Guidance Note are:

- information sharing – exchange of both price and non-price information among businesses;
- joint production – collaboration to jointly produce a product, share production capacity or subcontract production;
- joint commercialisation – collaboration in the selling, tendering, distribution or promotion of a product;
- joint purchasing – collaboration to jointly purchase from one or more suppliers;
- joint research and development (R&D) – collaboration on R&D activities, such as joint investment;

- standards development – the setting of industry or technical standards; and
- standard terms and conditions in contracts – usage of terms shared among competitors establishing conditions of sale and purchase of goods and services between them and their customers.

In particular, the Guidance Note sets out factors and conditions, such as the nature and extent of the collaborations, and indicative market shares, under which competition concerns are less likely to arise from the collaborations.

In determining whether an agreement has the object of preventing, restricting or distorting competition, the Commission is not concerned with the subjective intention of the parties when entering into an agreement. Instead, it will determine if the Section 34 Prohibition has been breached based on the content and objective aims of the agreement considered in the economic context in which it is to be applied. The Commission will also consider the actual conduct and behaviour of the parties in the relevant market.

However, an agreement will not be prohibited if it falls within an exclusion in the Third Schedule to the Competition Act or meets all of the requirements specified in a block exemption order. The matters specified in the Third Schedule include:

- an undertaking entrusted with the operation of services of general economic interest or having the character of a revenue-producing monopoly, in so far as the prohibition would obstruct the performance, in law or fact, of the particular tasks assigned to that undertaking;
- an agreement that is made to comply with a legal requirement;

- an agreement that is necessary to avoid conflict with an international obligation of Singapore and that is subject to an order by the Minister for Trade and Industry (the “Minister”)
 - an agreement that is necessary for exceptional and compelling reasons of public policy and that is subject to an order by the Minister;
 - any agreement that relates to any goods or services to the extent that any other written law or code of practice issued under any written law relating to competition gives another regulatory authority jurisdiction in the matter;
 - the supply of ordinary letter and postcard services by a person licensed and regulated under the Postal Services Act 1999;
 - the supply of piped potable water;
 - the supply of wastewater management services, including the collection, treatment and disposal of wastewater;
 - the supply of bus services by a licensed bus operator under the Bus Services Industry Act 2015;
 - the supply of rail services by any person licensed and regulated under the Rapid Transit Systems Act 1995;
 - cargo terminal operations carried out by a person licensed and regulated under the Maritime and Port Authority of Singapore Act 1996;
 - the clearing and exchanging of articles undertaken by the Automated Clearing House established under the Banking (Clearing House) Regulations; or
 - any activity of the Singapore Clearing Houses Association in relation to its activities regarding the Automated Clearing House.
- contribute to improving production or distribution, or promoting technical or economic progress;
 - not impose on the undertakings concerned restrictions that are not indispensable to the attainment of those objectives; and
 - not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services in question.

Additionally, Section 34 Prohibition does not apply to vertical agreements unless the Minister otherwise specifies by order (as set out in the Third Schedule). As of 12 April 2025, no such order had been made.

Certain liner shipping agreements are exempted from the application of the Section 34 Prohibition pursuant to a block exemption order (BEO), which first took effect on 1 July 2006 for five years and was extended twice until 31 December 2020. A third extension was granted on 26 August 2020, which extended the BEO for an additional year until 31 December 2021. Upon the recommendation of the Commission and pursuant to the Competition (Block Exemption for Liner Shipping Agreements) (Amendment) Order 2021, the BEO has been extended for another three years, from 1 January 2022 to 31 December 2024, in respect of vessel sharing agreements for liner shipping services and price discussion agreements for feeder services. This BEO in respect of vessel-sharing agreements for liner shipping services and price discussion agreements for feeder services has been extended for another five years, from 1 January 2025 to 31 December 2029, upon the recommendation of the CCCS on 28 October 2024 and pursuant to the Competition (Block Exemption for Liner Shipping Agreements) (Amendment) Order 2024. This BEO remains the only BEO that has been

Section 34 Prohibition also does not apply to agreements or conduct that give rise to net economic benefit (as provided in the Third Schedule). For a net economic benefit to be shown, the agreement or conduct must:

granted in Singapore since the Competition Act came into force.

Notably, Section 33 (4) of the Competition Act also provides that the substantive prohibitions will not apply to any activity carried on by, any agreement entered into or any conduct on the part of the government, any statutory body or any person acting on behalf of the government or that statutory body, as the case may be, regarding that activity, agreement or conduct.

1.5 Limitation Periods

There are no limitation period(s) applicable to a breach of the Section 34 Prohibition.

1.6 Jurisdiction

Section 33 of the Competition Act specifically states that the Commission may enforce infringements of the Section 34 Prohibition if the conduct that takes place outside Singapore has the object or effect of preventing, restricting or distorting competition in a market within Singapore. In particular, Section 33 of the Competition Act specifies that Section 34 of the Competition Act may apply notwithstanding that:

- an agreement referred to in Section 34 has been entered into outside Singapore;
- any party to such agreement is outside Singapore; or
- any other matter, practice or action arising out of such agreement is outside Singapore.

1.7 Principles of Comity

Pursuant to Section 88 of the Competition Act, the Commission is empowered to enter into arrangements with any foreign competition body with the approval of the Minister, whereby each party to such arrangements may:

- furnish the other party with information in its possession if the information is required by that other party for the purpose of performance by it of any of its functions; and
- provide such other assistance to the other party as will facilitate the performance by that other party of any of its functions.

In entering into any such arrangement, Section 88 of the Competition Act requires the Commission to adopt certain precautions relating to the subsequent disclosure of any information provided, including obtaining a written undertaking from the counterparty. As of 12 April 2025, the Commission has entered into:

- a memorandum of understanding to facilitate co-operation on competition enforcement with Indonesia's Commission for the Supervision of Business Competition;
- a memorandum of co-operation with Japan's Fair Trade Commission on cross-border enforcement;
- a memorandum of understanding with Canada's Competition Bureau to facilitate co-operation in the enforcement of national competition and consumer protection laws;
- a memorandum of understanding with the Philippine Competition Commission; and
- a memorandum of understanding with the State Administration for Market Regulation of the People's Republic of China.

The Framework

It should also be noted that the Commission joined the International Competition Network's Framework on Competition Agency Procedures (the "*Framework*") as a founding member on 16 May 2019. The Framework promotes several basic and non-binding principles designed to facilitate procedural fairness and transparency among participating competition agencies, in

addition to fostering closer co-operation between participating agencies through dialogue to better understand each other's processes. Given the recent introduction of the Framework, the Framework has not been tested or utilised in any of the Commission's investigations or enforcement cases as yet.

The ASEAN Framework Agreement on Competition

Singapore was also involved in the 54th ASEAN Economic Ministers Meeting in September 2022, where negotiations for the ASEAN Framework Agreement on Competition (AFAC) were launched. The final round of negotiations for the AFAC concluded in June 2024. The AFAC serves as a formal co-operation agreement that will facilitate cross-border co-operation and coordination on competition policy and law matters among the ASEAN member states.

ASEAN Economic Community Blueprint

The ASEAN Economic Community (AEC) Blueprint acknowledges the importance of competition policy and law (CPL) in promoting economic development and integration. Under the [AEC Blueprint 2025](#), ASEAN Member States (AMS) aim to provide a level playing field for all firms and foster a culture of fair business competition for enhanced regional economic performance in the long run. An [ASEAN Competition Action Plan for 2016 to 2025](#) (ACAP) has been developed based on the AEC Blueprint 2025, with the following five strategic goals:

- effective competition regimes are established in all AMS;
- the capacities of competition-related agencies in AMS are strengthened to effectively implement CPL;
- regional co-operation arrangements on CPL are in place;

- fostering a competition-aware ASEAN region; and
- moving towards greater harmonisation of competition policy and law in ASEAN.

The ASEAN Experts Group on Competition (AEGC) is an official body comprising representatives from the competition authorities and agencies responsible for CPL in ASEAN Member States. The AEGC oversees co-operation activities relating to CPL in ASEAN as well as the implementation of measures under the AEC Blueprint. Singapore is represented by the Commission at the AEGC and actively contributes to the various initiatives and activities at the AEGC.

1.8 Enforcement Priorities

The Commission maintains a register of notifications on and investigations into anti-competitive agreements on its website, and also issues media releases for proposed infringement decisions and infringement decisions. Of the recent cases, most were in relation to bid rigging.

Recent cartel cases include the following.

- On 5 September 2024, the Commission, for the first time, took enforcement action against companies that were formed for the purposes of facilitating bid-rigging conduct and issued an infringement decision against an undertaking in his individual capacity.
- On 25 October 2024, the Commission issued a proposed infringement decision against two construction companies for rigging bids in public sector tenders. As of 12 April 2025, the investigation is still ongoing.
- On 25 November 2024, the Commission issued a proposed infringement decision against two remittance service providers for unlawful exchange of price information. As of

12 April 2025, the investigation is still ongoing.

- On 20 December 2024, the Commission penalised two companies for bid-rigging tenders for interior fit-out construction services.

1.9 Guides Published by Governmental Authorities

The Commission has issued 12 sets of guidelines, including the CCCS Guidelines on the Section 34 Prohibition, the CCCS Guidelines on the Powers of Investigation in Competition Cases 2016, the CCCS Guidelines on Lenient Treatment for Undertakings Coming Forward with Information in Cartel Activity Cases 2016 and the CCCS Guidelines on the Appropriate Amount of Penalty in Competition Cases 2016, among others. The full set of guidelines can be found on the Commission's [website](#).

2. Early Stages of Cartel Enforcement

2.1 Initial Investigation

In practice, parties generally become aware of the Commission's investigations against them for a potential infringement of the Section 34 Prohibition in one of two ways.

Firstly, the Commission may serve a formal notice pursuant to Section 63 of the Competition Act, requiring the production of information or documents specified in the notice. The notice will set out the subject matter and purpose of the investigation and outline the nature of the offences that may be committed if a person fails to comply with the notice. It is not uncommon for multiple formal notices to be issued by the Commission to either the infringing parties or any other parties that might have information that is relevant to the investigation.

The written notice may also designate a time and place at which a document or information must be produced and the manner and form in which it is to be produced. If information is provided, it may be recorded or reduced to writing by the Commission's officers. The person providing the information will be given an opportunity to amend, add to or delete aspects of the written record before signing it. If a document is produced, the Commission may require an explanation of the document to be provided as well. The Commission will generally not ask for more documents or information than it believes necessary for the investigation as at the date of the written notice.

Secondly, the Commission may conduct unannounced searches (also known as dawn raids) of business premises. See **2.2 Dawn Raids/Search Warrants** for further details.

2.2 Dawn Raids/Search Warrants

The Commission may conduct dawn raids under a warrant pursuant to Section 65 of the Competition Act, where there are reasonable grounds to suspect that there are relevant documents on the premises that would be concealed, removed, tampered with or destroyed if the Commission requested their production through a formal notice. It should be noted that the Commission may also enter premises without a warrant under Section 64 of the Competition Act, although it is a requirement to provide written notice at least two working days in advance of intended entry, and the Commission's officers will not have the ability to actively search the premises. However, there is no need to provide notice if the premises are reasonably suspected to be, or have been, occupied by the undertaking that is being investigated in relation to an agreement infringing the Section 34 Prohibition.

Where the Commission conducts a search of the premises under warrant, the Commission's officers will normally arrive at the premises during office hours. If no one is at the premises, the Commission's officers will take reasonable steps to inform the occupier of the intended entry. The occupier and legal representative will be given a reasonable opportunity to be present when the warrant is executed.

Where the Commission's officer grants a request allowing an occupier's legal representative a reasonable time to arrive at the premises, the Commission's officer may impose such conditions as deemed appropriate, which may include the sealing of cabinets, keeping business records in the same state and places as when entry into the premises was effected, suspending external email, and allowing the Commission's officers to occupy selected offices. The legal representative will only be given a reasonable time to arrive at the premises before a raid is executed. If the occupier has an in-house legal representative on the premises, the Commission's officers will not wait for an external legal representative to arrive.

In general, a warrant to conduct searches may only be granted if the court is satisfied that there are reasonable grounds for suspecting that within the premises to be searched there are:

- documents that should be produced under Section 63 (by written notice) or 64 (in the course of an inspection without a warrant) of the Competition Act but have not been produced;
 - documents that an investigating officer, authorised person, inspector or person appointed by the inspector could have required to be produced under Section 64 but they were unable to access the premises; or
 - documents that could be concealed, removed, tampered with or destroyed if the Commission were to require their production under Section 63.
- If a warrant is granted by the courts, the warrant may permit the Commission's officers to do all or any of the following:
- enter the premises and use such force as is reasonably necessary for the purpose of gaining entry;
 - search any person on the premises if there are reasonable grounds to believe that the person has in their possession any document, equipment or article that has a bearing on the investigation;
 - search the premises and take copies or extracts from any document appearing to be the kind in respect of which the warrant was granted;
 - take possession of any document appearing to be the kind in respect of which the warrant was granted, if necessary to preserve the document or prevent tampering, or if it is not reasonably practicable to make copies of it on the premises;
 - take any other step necessary to preserve the documents or prevent interference with them, including the sealing of premises, offices or files;
 - require any person to explain any document appearing to be the kind in respect of which the warrant was granted or state to the best of their knowledge where it could be found;
 - require any person on the premises to produce any relevant document at such location, time, and in such form and manner as may be required by the Commission;
 - require any information stored in electronic form and accessible from the premises that the Commission's officers consider to be

- related to any matter relevant to the investigation, to be produced in a form in which it can be taken away and read; and
- remove from the premises any equipment or article related to any matter relevant to the investigation (eg, computers).

While the Commission's powers under the warrant appear to be broad, a significant caveat is that the Commission's power to require the disclosure of information or documents under the Competition Act does not extend to any communication that would be protected in disclosure in court proceedings on the grounds of legal advice privilege or litigation privilege (see **2.6 Attorney-Client and Other Privileges**).

It should also be noted that where the Commission's officers intend to enter premises without a warrant, the Commission's officers may nonetheless require:

- any person on the premises to produce any document that the Commission's officers consider related to any matter relevant to the investigation – eg, minutes of any meetings with competitors, the diaries of specified directors, sales data or invoices;
- any person on the premises to provide an explanation of any document produced;
- any person to state, to the best of that person's knowledge and belief, the location of any document that the Commission's officers consider to be related to any matter relevant to the investigation;
- any information stored in any electronic form and accessible from the premises that the Commission's officers consider to be related to any matter relevant to the investigation, to be produced in a form in which it can be read and taken away; and

- the taking of any other steps that appear necessary to preserve the documents or prevent interference with them – eg, sealing such rooms or cabinets for such time as is reasonably necessary to enable the inspection to be completed (this period will not be longer than 72 hours, except where an undertaking consents to a longer time or where access to documents is unduly delayed, such as by the unavailability of a person who can provide access).

Furthermore, the Commission is empowered to interview occupants on the premises being inspected without having to serve a written notice, under Section 63 of the Competition Act. The Commission's officers may require individuals to answer any question relating to the investigation, and any information provided verbally must be put in writing, read to the individual, and after correction (if any), signed by the individual. If the individual does not understand English, the information recorded will be interpreted in a language that the individual understands.

2.3 Spoliation of Evidence

The Competition Act specifies certain offences relating to non-compliance or non-cooperation with the Commission's investigations; in particular, where a person:

- refuses to provide information pursuant to a requirement on them to do so;
- destroys, falsifies or conceals documents;
- provides false or misleading information; or
- obstructs an officer of the Commission in the discharge of their duties.

A person who is convicted of an offence concerning the above may be sentenced to a term of imprisonment not exceeding 12 months, a fine not exceeding SGD10,000, or both. To

date, criminal sanctions relating to an offence described above have not been imposed in any case in Singapore.

2.4 Role of Counsel

Legal counsel (whether in-house or external) may play a role in the investigations process. For instance, where the Commission issues a written notice to require the production of documents or information under Section 63 of the Competition Act, legal advice may be sought in relation to the notice. A person required by the Commission to provide information or an explanation of a document may also be accompanied by legal counsel. However, it should be noted that the individual must be the person responding, and the Commission has stated that it is not acceptable for another person to respond on that individual's behalf. In addition, where the Commission conducts a search of the premises under warrant, the occupier's legal counsel may be given a reasonable amount of time to arrive at the premises under certain circumstances (see **2.2 Dawn Raids/Search Warrants**).

Generally, cartel involvement does not give rise to liability for individuals (such as employees or officers of the entity under investigation). In such a situation, representation would be at the corporate level. However, where individuals commit one of the ancillary offences relating to the obstruction of the Commission's investigations, individuals may consider obtaining legal representation in relation to any subsequent criminal proceedings brought against them.

In practice, legal counsel should inform all officers and employees of the undertaking under investigation of the legal requirements to cooperate with the Commission's officers, with particular emphasis on ensuring that there should be no attempts to delete, destroy or conceal

information or documents that may be relevant to the investigation. Legal counsel should also ensure that officers and employees do not disclose to other third parties that the undertaking is under investigation and/or a dawn raid has taken place; in particular, to such other undertakings that may potentially be the subject of the Commission's investigations.

2.5 Obtaining Evidence/Testimony

The Commission may issue a notice under Section 63 of the Competition Act to require the production of specified documents, provide specified information, or enter any premises to gain access to documents, either with or without a warrant.

Apart from issuing a notice under Section 63 of the Competition Act to require the provision of specified information, which may be given orally, the Commission's officers may also interview any person on the premises under inspection.

See **2.1 Initial Investigation** and **2.2 Dawn Raids/Search Warrants** for further details.

2.6 Attorney-Client and Other Privileges

As mentioned in **2.2 Dawn Raids/Search Warrants**, the Commission's power to require the disclosure of information or documents under the Competition Act does not extend to any communication that would be protected from disclosure in court proceedings on the ground of legal advice privilege or litigation privilege. Section 66 (3) of the Competition Act also provides that a professional legal adviser is not required to disclose or produce privileged communications made by or to them in that capacity.

In general, the advice provided by in-house counsel is also protected by legal professional privilege under the Evidence Act 1893 (the "Evi-

ence Act”). This was affirmed in the Commission’s Guidelines on the Powers of Investigation in Competition Cases 2016, which stated that “communications with in-house lawyers, in addition to lawyers in private practice including foreign lawyers, can benefit from the privilege”.

Section 66 (2) of the Competition Act provides a saving provision in respect of statements that may tend to incriminate individuals. Where an individual claims, before making any statement disclosing information, that the statement may tend to incriminate them, that statement shall not be admissible in evidence against them in criminal proceedings other than in proceedings under Part 5 of the Competition Act relating to ancillary offences such as providing false or misleading information (see **6.4 Evidence Obtained From Governmental Investigations/Proceedings**). Notwithstanding, these statements may be used by the Commission in its investigations and enforcement and remain admissible as evidence in civil proceedings, including proceedings under the Competition Act (see **1.2 Regulatory/Enforcement Agencies and Penalties** and **6.1 Private Rights of Action**).

2.7 Non-Cooperation

As mentioned in **2.3 Spoliation of Evidence**, the Competition Act provides for offences in relation to obstruction of the Commission’s investigation efforts, which carry a sentence of imprisonment, a fine, or both. Furthermore, certain forms of non-cooperation, such as unreasonable failure by an undertaking to respond to a request for financial information on business turnover and/or relevant turnover, may be considered by the Commission as an aggravating factor in determining the appropriate financial penalty to be imposed, where relevant.

2.8 Protection of Confidential/Proprietary Information

Parties cannot refuse to provide information or documents on the basis that they are confidential. However, parties are allowed to claim confidentiality over any information that they furnish to the Commission, and Section 89 of the Competition Act protects such confidential information (subject to certain statutory exceptions) by requiring the Commission’s officers and other specified parties handling such information to preserve and aid in the preserving of secrecy, including all matters relating to the business, commercial or official affairs of any person.

2.9 Arguments Against Enforcement Actions

Defence counsel may raise legal and factual arguments to persuade the Commission to forgo taking action in response to enquiries by the Commission or by proactive engagements with the Commission during an investigation.

During the Commission’s investigations, and before the Commission decides whether the Section 34 Prohibition has been infringed, entities under investigation may come forward to voluntarily offer legally binding commitments to address the competition concerns identified in the course of investigations. The Commission will cease its investigations if it accepts these commitments. Legally binding commitments can be enforced by the Commission through the courts under Section 85 of the Competition Act. While it is not stipulated in the Competition Act, defence counsel may play a role in this process in advising the relevant entity under investigation on the offering of legally binding commitments.

In the Commission’s Guidelines on Direction and Remedies (previously named the Guidelines on Enforcement of Competition Cases 2016), the

Commission clarified its position on commitments proposed by parties under investigation. The Commission has indicated that it will generally not accept commitments in cases involving restrictions of competition by object, such as bid rigging, with no accompanying net economic benefit.

3. Leniency, Immunity and Whistle-Blower Regimes

3.1 Leniency

Under the Commission's leniency programme, an undertaking that applies for leniency may be granted the benefit of total immunity from financial penalties if it:

- is the first to provide the Commission with evidence of the cartel activity before an investigation has commenced, provided that the Commission does not already have sufficient information to establish the existence of the alleged cartel activity;
- provides the Commission with all the information, documents and evidence available to it regarding the cartel activity;
- grants an appropriate waiver of confidentiality to the Commission in respect of other jurisdictions and regulatory authorities notified of the conduct and/or from which leniency has been sought;
- unconditionally admits liability to the conduct for which leniency is sought;
- maintains continuous and complete co-operation throughout the investigation and until the conclusion of any action by the Commission arising as a result of the investigation;
- refrains from further participation in the cartel activity from the time of disclosure of the cartel activity to the Commission (except as may be directed by the Commission);

- is not responsible for initiating the cartel; and
- has not taken any steps to coerce another undertaking to take part in the cartel activity.

After the Commission has commenced an investigation, any reduction in the level of financial penalty will be at the Commission's discretion. The first party that provides information to the Commission about the cartel that is sufficient for it to issue an infringement decision can receive lenient treatment by way of a reduction of up to 100% in the level of the financial penalties. Subsequent applicants may benefit from reduced financial penalties of up to 50%.

In addition, the leniency programme in Singapore is also supplemented by a marker system and a Leniency Plus system.

The Marker System

The marker system is available to undertakings that cannot immediately provide all the information, documents and evidence regarding the cartel activity, provided that the Commission has not announced its intention to make a decision on whether the Section 34 Prohibition has been infringed. An applicant who obtains a marker will secure a position in the queue for immunity or a reduction in the financial penalty of up to 100%, while the Commission grants the applicant a limited period to gather the necessary information, documents and evidence. If the applicant is unable to perfect the marker by providing the necessary information, documents and evidence within the time period specified, the Commission may grant extensions on a case-by-case basis. If the applicant fails to perfect the marker, the next applicant in the marker queue will be eligible to obtain immunity or a reduction in the financial penalty of up to 100%. Once the marker has been perfected, the other applicants in the marker queue will be informed that they no long-

er qualify for full immunity or 100% reduction in financial penalties.

The Leniency Plus System

Under the Commission's Leniency Plus system, a party involved in completely separate cartel activities in two different markets may benefit from additional reductions in the financial penalties imposed on it in the first market if that party provides information in respect of cartel activity in the second market. To be clear, the party does not need to be in receipt of leniency in respect of the first market to receive this reduction. The reduction in financial penalties will be in addition to any reduction it would receive for its co-operation in the investigation in the first market.

3.2 Amnesty/Immunity

See 3.1 Leniency.

3.3 Whistle-Blowers

Individuals/businesses who are not directly involved in competition infringements can file an online complaint on the Commission's website or call the Commission's hotline in relation to anti-competitive activities.

Persons who have useful information on cartel activity in Singapore may also provide such information to the Commission via mail, email or the Commission's hotline. Examples of useful information include:

- companies/businesses that are part of the cartel;
- origins of the cartel;
- the nature of the industry where the cartel is operating; and
- documents or other information evidencing the agreements, decisions or practices of the cartel.

In appropriate cases, individuals who whistle-blow on a cartel activity may receive a monetary reward, which is capped at SGD120,000. However, the actual amount paid out is determined at the sole discretion of the Commission. Any monetary reward will be paid out only after the issuance of an infringement decision by the Commission.

It is not a requirement for companies to have a hotline for internal reporting of cartel issues.

As far as is known, there are no specific whistle-blower counsels in relation to cartel activity in Singapore.

4. Procedural Framework for Cartel Enforcement

4.1 Obtaining Evidence From Employees

In general, company employees may be required to provide information (including an explanation of any document provided) to the Commission pursuant to a notice issued by the Commission under Section 63 of the Competition Act. Employees may also be interviewed by the Commission's officers during an inspection of the company's premises. See 2.1 Initial Investigation and 2.2 Dawn Raids/Search Warrants on the Commission's powers of investigation.

4.2 Obtaining Documentary Evidence From Subject/Target Companies

The Commission may generally obtain documents and information from the company under investigation pursuant to the issuance of a written notice under Section 63 of the Competition Act and/or by entering the premises and conducting a search for such information under Sections 64 and 65 of the Competition Act. Please see 2.1 Initial Investigation and 2.2 Dawn Raids/

Search Warrants on the Commission's powers of investigation.

4.3 Obtaining Evidence From Entities Outside the Jurisdiction

Section 63 of the Competition Act empowers the Commission to request information from any person pursuant to a written notice. While the Competition Act does not specify how the notice may be issued in respect of companies or individuals located outside the jurisdiction, the Commission's Guidelines on the Powers of Investigation in Competition Cases 2016 state that the written notice should be delivered personally or sent by pre-paid post to the last known address of the person. The same penalties for any non-compliance with the Commission's investigations will apply.

4.4 Domestic Inter-Agency Co-Operation

Where cross-sectoral competition matters involve an industry separately regulated by industry-specific regulators (eg, telecommunications, media, post, gas and electricity), the Commission will work with the relevant regulator to determine which agency is best placed to handle the matter in accordance with statutory powers. The lead will be taken by the agency best placed to investigate the alleged anti-competitive conduct and impose any necessary remedies.

4.5 International Inter-Agency Co-Operation

See **1.7 Principles of Comity** on the Commission's ability to enter into co-operative agreements with other foreign competition authorities.

Separately, the Commission has also publicly acknowledged that there has been at least one occasion where the Commission has co-operated with overseas competition authorities on conducting dawn raids. Furthermore, an appro-

priate waiver of confidentiality in respect of other regulatory authorities informed of the conduct must be granted by an applicant seeking leniency from the Commission so that the Commission may communicate with such authorities in its investigations.

4.6 Issuing Criminal Indictments

As noted in **1.2 Regulatory/Enforcement Agencies and Penalties**, there is no criminal liability for infringements of competition law in Singapore, except for the ancillary offences relating to the failure to comply or co-operate when the Commission exercises its powers of investigation. Such offences will be tried in the district court, which has the power to impose the full penalty or punishment.

4.7 Issuing Civil Complaints

The Commission is the primary agency responsible for initiating an investigation and deciding whether the Section 34 Prohibition has been infringed in the first instance. See **2.1 Initial Investigation** and **2.2 Dawn Raids/Search Warrants** on the Commission's powers of investigation.

Where the Commission concludes, following the completion of investigations, that the parties have infringed the Section 34 Prohibition, the Commission will issue a proposed infringement decision (PID), which is a written notice setting out the basis of the Commission's decisions. The parties concerned will be given an opportunity to make representations to the Commission and present any other information for the Commission's consideration before the Commission finalises its decision. Parties will also be allowed to inspect the documents in the Commission's file relied on in its assessment. The Commission may withhold any documents to the extent that they contain confidential information or

are internal documents. After the Commission has considered the parties' representations, it will finalise its infringement decision, which will set out the penalties and other remedies to be imposed, if any.

4.8 The Role of Experts

The Commission comprises several divisions employing officers from various fields of expertise. In particular, the Legal and Business and Economics Divisions of the Commission comprise officers who can provide expert economic and legal analyses in competition and consumer cases to ensure that the detection, investigation, decision and enforcement processes are fair, thorough and robust.

In addition, where parties intend to make an application to the Commission for guidance or a decision on whether the agreement or conduct infringes the Section 34 Prohibition, they may require the assistance of experts in substantiating certain information that must be included in an application to the Commission; for example, a definition of the relevant product and geographic markets.

4.9 Possibility of Multiple Proceedings

The Commission may undertake several investigations at the same time based on the same or related facts.

5. Sanctions and Remedies in Criminal Cartel Enforcement

5.1 Imposition of Sanctions/Fines

The Competition Act gives the Commission the power to enforce the Section 34 Prohibition. Where the Commission has made a decision finding that the Section 34 Prohibition has been infringed, the Commission may give directions

that it considers appropriate to bring the infringement to an end. These directions may require the person concerned to modify or terminate the agreement or conduct, report periodically to the Commission on certain matters, and may even require undertakings to make structural changes to their business, where appropriate. The Commission is not limited to giving directions to the infringing parties.

In general, directions will typically take effect immediately unless the Commission provides for a period within which to comply with a direction. An appeal to the Board or a relevant appeal court will not suspend a direction unless an interim order is made by the Board or relevant appeal court.

In addition, the Competition Act provides that the Commission has the discretion to give a direction imposing a financial penalty on any party that has intentionally or negligently infringed the Section 34 Prohibition. The imposition of financial penalties reflects the seriousness of the infringement and serves as an effective deterrent.

The penalty imposed may be up to 10% of the turnover of the undertaking's business in Singapore for each year of infringement, up to a maximum of three years. The Commission has considered that intention or negligence relates to the facts, not the law. This means that ignorance or a mistake of law is no bar to a finding of intentional or negligent infringement.

5.2 Plea Bargaining/Settlement

As noted in 2.9 **Arguments Against Enforcement Actions**, entities under investigation may come forward to voluntarily offer legally binding commitments to address the competition concerns identified by the Commission at any

time during the Commission's investigations and before the Commission decides whether the Section 34 Prohibition has been infringed. The Commission will cease its investigations if it accepts these commitments. Legally binding commitments can be enforced by the Commission through the courts under Section 85 of the Competition Act.

The Fast-Track Procedure

Separately, the Commission has "*fast-track*" procedure to expedite the investigative timeframe for cases involving the infringement of the Section 34 Prohibition detailed in the Commission's Practice Statement on the Fast Track Procedure for Section 34 and Section 47 Cases (the "*Fast-Track Procedure*"). Under this procedure, parties that admit liability for their infringement will be eligible for a fixed percentage reduction in the financial penalty they are directed to pay pursuant to Section 69 (2)(e) of the Competition Act. This procedure is not mutually exclusive from the leniency regime, and a leniency applicant can benefit from discounts arising from both leniency and the Fast-Track Procedure.

Notwithstanding the parties' willingness to participate in the Fast-Track Procedure, the Commission retains broad discretion to determine whether the procedure would be suitable for the case under investigation. The Commission will initiate the Fast-Track Procedure where it is reasonably satisfied, based on the information the Commission has, that the evidentiary standard of proof has been met such that it would be prepared to issue a proposed infringement decision or final infringement decision (as appropriate, given the stage of proceedings). It is understood that parties to such a procedure may not disclose any information received from their participation in this procedure to other third

parties, except with prior authorisation from the Commission.

On 14 December 2020, the Fast-Track Procedure was applied for the first time in a bid-rigging decision involving three water features maintenance businesses – CU Water Services, Crystalene Product (S) and Crystal Clear Contractor. In exchange for an admission of liability and co-operation with the Commission, the latter two companies benefited from a 10% reduction on their respective financial penalties.

5.3 Effect of Liability Being Established

Any person who suffers loss or damage directly due to an infringement of the Section 34 Prohibition has a right of action for relief in civil proceedings in a court against any undertaking that is or has at the material time been a party to such infringement. It should be noted, however, that no private action may be brought under the Competition Act until the Commission has issued an infringement decision and the appeal period has expired, or where an appeal has been brought, upon the determination of the appeal.

5.4 Sanctions and Penalties in Criminal Proceedings

As noted in 1.2 Regulatory/Enforcement Agencies and Penalties, there is no criminal liability for infringements of competition law in Singapore, except for the ancillary offences relating to the failure to comply or co-operate when the Commission exercises its powers of investigation.

5.5 History of Criminal Sanctions

The highest financial penalty issued by the Commission for cartel conduct was a total of SGD26.9 million, against fresh chicken distributors for price-fixing and agreeing not to compete across a seven-year period.

The Competition Act does not impose criminal liability in respect of competition law violations.

5.6 Relevance of Effective Compliance Programmes

The Commission has stated in its Guidelines on the Appropriate Amount of Penalty in Competition Cases that the financial penalty may be reduced where the Commission considers there are mitigating factors, including the existence of any compliance programme. In considering how much mitigating value is to be accorded to the existence of any compliance programme, the Commission will take into account whether:

- there are appropriate compliance policies and procedures in place;
- the programme has been actively implemented;
- it has the support of, and is observed by, senior management;
- there is active and ongoing training for employees at all levels who may be involved in activities touched by competition law; and
- the programme is evaluated and reviewed at regular intervals.

5.7 Mandatory Consumer Redress

There are no provisions requiring mandatory consumer redress for a breach of the Section 34 Prohibition in the Competition Act. As noted in **1.2 Regulatory/Enforcement Agencies and Penalties** and **6.1 Private Rights of Action**, individuals have private rights of action to seek redress in court from parties found by the Commission to have infringed the Section 34 Prohibition.

5.8 Judicial Review or Appeal

As noted in **1.2 Regulatory/Enforcement Agencies and Penalties**, appeals regarding the Commission's decisions can be made to the Board,

which is an independent body established under Section 72 of the Competition Act. The Board's powers and procedures are set out primarily in Section 73 of the Competition Act and the Competition (Appeals) Regulations.

In general, parties to an agreement or persons whose conduct in respect of which the Commission has made a decision finding an infringement of the Section 34 Prohibition may appeal against that decision, the imposition of or the amount of any financial penalty, or any directions issued. There is no right to appeal to the Board against the Commission's refusal to accept any commitments offered, but appeals may be made against the Commission's refusal to vary, substitute or release existing commitments.

Procedure for Making an Appeal

Procedurally, appeals are made by lodging a notice of appeal, in accordance with the Competition (Appeals) Regulations, within two months from the date of the Commission's decision. Thereafter, the Commission has six weeks to file its defence. The Board may determine the procedure and timetable of the appeal, usually through holding a case management conference with the parties. The Board has broad powers to make such directions it thinks fit to secure the just, expeditious and economical conduct of the appeal proceedings.

The outcome

Regarding the outcome, the Board can confirm, impose, revoke or vary a direction, or make any other direction or decision, as long as it is a decision or direction that the Commission itself could have given. On the merits of the appeal, the Board will apply the civil standard of proof – namely, proof on the balance of probabilities – which the Board has previously applied in the Express Bus Operators case.

Further appeal

Further appeals against the Board's decisions to the General Division of the High Court may be made on a point of law arising from a decision of the Board or in respect of any decision made by it as to the amount of the financial penalty. Appeals are brought by way of originating application, and the procedure governing the appeal is set out in Order 20 of the Rules of Court 2021. Parties may also appeal decisions of the General Division of the High Court to the Court of Appeal under Section 74 (4) of the Competition Act. There is no further appeal right from the Court of Appeal.

Actual appeals filed

As of 12 April 2025, 21 appeals have been filed to the Board; two were withdrawn, two are in progress, and the remainder have been completed. To date, no further appeals have been made against the Board's decisions.

5.9 Timeline of Cartel Enforcement Process

The length of cartel enforcement investigation and proceeding varies on a case-to-case basis. After the Commission conducts its preliminary investigations, a proposed infringement decision may be issued. After such a proposed infringement decision is issued, parties have the opportunity to make their individual representations to the Commission regarding the proposed infringement decision. The Commission will consider any representations received, and evidence obtained in the course of the investigation before making its final decision. There are no fixed timelines for the various stages of the investigations.

In a recent case involving bid-rigging tenders for interior fit-out construction services, the Commission's investigations commenced in

November 2020. The proposed infringement decision was issued on 25 October 2024, and the infringement decision was issued on 20 December 2024.

In another recent case involving bid-rigging conduct in tenders for the procurement of licences for vulnerability management software and related support services called by Ngee Ann Polytechnic, the Commission commenced its investigations on 25 August 2023. The proposed infringement decision was issued on 2 August 2024, and the infringement decision was issued on 5 September 2024.

6. Civil Litigation

6.1 Private Rights of Action

Third parties, including firms and individuals, may have a private right of action under Section 86 of the Competition Act. As stated in **1.2 Regulatory/Enforcement Agencies and Penalties**, such a right of private action is premised on an infringement finding by the Commission, and may only be brought within two years following the expiry of any applicable periods. There is no record of any such proceedings being brought in Singapore concerning competition-related matters.

6.2 Collective Action

On 1 April 2022, the new Rules of Court 2021 came into operation. Under Order 4, rule 6 (1), where numerous persons have a common interest in any proceedings, such persons may sue or be sued as a group with one or more of them representing the group. Under Order 4, rule 6 (4), where there is a class of persons and all or any member of the class cannot be ascertained or cannot be found, the court may appoint one or more persons to represent the entire class or

part of the class and all the known members, and the class must be included in a list attached to the order of court. However, notwithstanding that representative and class actions may be brought, claimants still need to demonstrate that they have suffered loss or damage directly.

6.3 Indirect Purchasers and “Passing On” Defences

While questions of indirect purchasers and “*passing-on*” defences have yet to be considered in Singapore, it should be noted that only persons who suffer loss or damage directly as a result of an infringement of the Section 34 Prohibition may bring a private action under the Competition Act.

6.4 Evidence Obtained From Governmental Investigations/ Proceedings

Production of documents requirements under the Rules of Court will likely apply to evidence from the Commission’s investigations.

6.5 Frequency of Completion of Litigation

As of 12 April 2025, there have not been any claims brought by individuals in the exercise of their private rights of action in respect of a violation of the Section 34 Prohibition, nor have there been any publicly available details relating to any out-of-court settlements on the same.

6.6 Attorneys’ Fees

In general, “*costs follow the event*” for most civil actions in Singapore. This means that the costs of an action (which may include fees, charges, disbursements, expenses and remuneration) are usually awarded to successful litigants, although any award of costs is subject to the court’s discretion.

6.7 Costs/Fees

See 6.6 Attorneys’ Fees.

6.8 Judicial Review or Appeal

In general, the normal avenues of appeal applicable to civil cases would apply. As noted in 6.5 Frequency of Completion of Litigation, there is no record of any claims brought by individuals in the exercise of their private rights of action.

7. Trends in Cartel Enforcement

7.1 Information Sharing as a Cartel Offence

As noted in 1.4 “*Cartel Conduct*”, agreements to share information or exchanges of price information and/or non-price information are cited by the Commission’s Guidelines on the Section 34 Prohibition as examples of cartel activities.

The exchange of information may be found to have an adverse effect on competition. For example, the exchange of price information may lead to price co-ordination. Additionally, it is noted that, generally, the more recent or current the information exchanged, the more likely that the exchange could have an appreciable effect on competition.

However, the exchange of purely historical information or price trends are unlikely to have an appreciable effect on competition, especially if the exchange is part of a scheme of inter-business comparisons intended to spread best industrial practice, or if the information is collected, aggregated and disseminated by an independent party.

On 25 November 2024, the Commission issued a proposed infringement decision in relation to information sharing involving two remittance ser-

vice providers. The parties were found to have engaged in anti-competitive co-ordination to exchange information on each other's outward remittance rates for the Chinese Yuan. As of 12 April 2025, the investigation is still ongoing.

7.2 Use of AI and Algorithms

In the E-commerce Platforms Market Study published on 10 September 2020, the Commission noted that the increased use of AI systems and algorithms in pricing decisions could increase the risk of collusion between competitors on digital platforms. Where AI or pricing algorithms are used to support or facilitate any preexisting or intended anti-competitive agreement or concerted practice, such activities are clearly subject to the existing enforcement framework. As long as algorithms are used to assist in the implementation of an anti-competitive agreement, liability for infringing the Section 34 Prohibition can be established based on evidence of the underlying anti-competitive agreement or concerted practice.

To date, there have not been any enforcement actions involving the use of AI and/or pricing algorithms.

7.3 Monopolisation as a Cartel Offence

Monopolisation or being a dominant player in a market is by itself not anti-competitive in Singapore. However, a dominant player should take caution not to infringe Section 47 of the Competition Act, which prohibits *“any conduct on the part of one or more undertakings which amounts to the abuse of a dominant position in any market in Singapore”*.

7.4 Focus on Certain Industries/Sectors

The building construction sector has come under greater scrutiny in recent times for cartel offences, with the Commission carrying out

unannounced inspections at companies for potential infringements of the Section 34 Prohibition. One of the two infringement decisions issued by the Commission in 2024 was in relation to bid-rigging tenders for interior fit-out construction services.

The recent anti-competitive agreements notifications to the Commission mostly involve the aviation industry, however these notifications have all been closed following commitments or granted conditional clearance.

Based on the Commission's recent cartel enforcement decisions, some other industries and sectors that have come under scrutiny include remittance services and vulnerability management software and related support services.

7.5 Use of Messaging Applications and Chat Platforms

As noted in 2.3 **Spoliation of Evidence**, it is an offence under the Competition Act to refuse to provide information, to destroy or falsify documents, to provide false or misleading information, and/or to obstruct an officer of the Commission.

Persons who are convicted of an offence may be sentenced to a term of imprisonment not exceeding 12 months, a fine not exceeding SGD10,000, or both.

7.6 “No Poach” and Labour Market Allocation Conduct

In Singapore, *“no poach”* agreements or labour market allocations are not automatically viewed as cartel offences. Nevertheless, the Section 34 Prohibition would apply equally to such agreements or allocations if they are found to have as their object or effect the prevention, restriction or distortion of competition within Singapore.

Typically, “no poach” agreements are found in individual employment contracts, which may include restrictive covenants in relation to non-solicitation post termination.

7.7 Leniency v Ex Officio Investigations

Information on the breakdown and details of leniency/amnesty applications are not publicly reported in Singapore.

Infringement decisions issued by the Commission may disclose whether leniency has been granted to certain parties.

7.8 Domestic v International Investigations

As noted in **1.1 Legal Bases**, the Section 34 Prohibition applies in respect of “*agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore*” (emphasis added).

In this regard, the Commission generally only investigates domestic cartel activity, and it is expected that such trend will continue, unless cross-border cartel activity is found to prevent, restrict or distort competition within Singapore.

7.9 Environmental, Social and Governance (ESG) Cartels

On 1 March 2024, the Commission issued a Guidance Note on Business Collaborations Pursuing Environmental Sustainability Objectives (“*Environmental Sustainability Collaboration Guidance Note*”), which aims to clarify how the Commission will assess business collaborations pursuing environmental sustainability objectives in the context of the Section 34 Prohibition. In particular, it provides guidance on the following:

- clarification on what are considered environmental sustainability objectives;
- examples of collaborations pursuing environmental sustainability objectives that would typically not be harmful to competition;
- conditions under which competition concerns are less likely to arise from such collaborations, and how businesses can therefore potentially minimise such concerns in their collaborations;
- how the Commission would assess the economic benefits of collaborations and whether such collaborations may nevertheless qualify for the Net Economic Benefit exclusion, even if there are competition concerns; and
- a proposed streamlined notification process in relation to assessments of collaborations pursuing environmental sustainability objectives, for businesses that notify their agreements to the Commission.

On 3 January 2025, the Commission gave positive guidance in its first case under the streamlined process outlined in the Environmental Sustainability Collaboration GN. The Commission assessed that the joint establishment and operation of Beverage Container Return Scheme (BCRS) Ltd. by Coca-Cola Singapore Beverages Pte. Ltd., F&N Foods Pte Ltd and Pokka Pte. Ltd. is unlikely to infringe the Section 34 Prohibition.

The Environmental Sustainability Collaboration Guidance Note is intended to be read together with the Commission’s Guidelines on the Section 34 Prohibition and the Commission’s Business Collaboration Guidance Note, which was released on 28 December 2021.

7.10 Crisis Cartels

There are no known instances of crisis cartels in Singapore.

Trends and Developments

Contributed by:

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Drew & Napier LLC is one of Singapore's leading and largest full-service law firms. Its competition law and regulatory practice was established in 1999, and is the oldest and largest dedicated competition law practice in Singapore. Established six years before the enactment of the Competition Act in 2005, the experience of the practice has grown in tandem with the development of both national and sectoral competition laws in Singapore. The practice is the preferred competition law counsel of many

regional companies, multinational corporations, associations and government bodies, and regularly assists them on competition matters in Singapore and ASEAN member countries. The practice comprises lawyers that are cross-trained in competition law and economics, who are highly experienced and qualified in handling competition law matters both generally under the Competition Act as well as in the carved-out telecommunications, media, energy and postal sectors.

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Overview

In Singapore, the primary competition legislation is the Competition Act 2004 (the “*Competition Act*”).

Broadly, the Competition Act prohibits three main types of anti-competitive conduct: anti-competitive agreements (ie, cartel activities), abuse of dominant position, and mergers and acquisitions that substantially lessen competition.

In particular, Section 34 of the Competition Act prohibits cartel activities in respect of “*agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore*”. Such anti-competitive agreements prohibited by the Competition Act include bid-rigging, price fixing, production control, and market sharing, among others.

The regulatory and enforcement agency in Singapore is the Competition and Consumer Commission of Singapore (the “*Commission*”), a statutory body established on 1 January 2005 to administer and enforce the Competition Act under the purview of the Ministry of Trade and

Industry. From 1 April 2018, the Commission also assumed responsibility for administering the Consumer Protection (Fair Trading) Act 2003.

Powers of the Commission

Under the Competition Act, the Commission has various powers of enforcement, including conducting dawn raids under a warrant where there are reasonable grounds to suspect that there are relevant documents on the premises that would be concealed, removed, tampered with or destroyed if the Commission requested their production through a formal notice.

If a warrant is granted by the Singapore courts, the warrant may permit the Commission’s officers to:

- enter the premises and use such force as is reasonably necessary for the purpose of gaining entry;
- search any person on the premises if there are reasonable grounds to believe that the person has in their possession any document, equipment or article that has a bearing on the investigation;
- search the premises and take copies or extracts from any document appearing to be

the kind in respect of which the warrant was granted;

- take possession of any document appearing to be the kind in respect of which the warrant was granted, if necessary to preserve the document or prevent tampering, or if it is not reasonably practicable to make copies of it on the premises;
 - take any other step necessary to preserve the documents or prevent interference with them, including the sealing of premises, offices or files;
 - require any person to explain any document appearing to be the kind in respect of which the warrant was granted or state to the best of their knowledge where it could be found;
 - require any person on the premises to produce any relevant document at such location, time, and in such form and manner as may be required by the Commission;
 - require any information stored in electronic form and accessible from the premises that the Commission's officers consider to be related to any matter relevant to the investigation, to be produced in a form in which it can be taken away and read; and
 - remove from the premises any equipment or article related to any matter relevant to the investigation (eg, computers).
- ings with competitors, the diaries of specified directors, sales data or invoices;
 - any person on the premises to provide an explanation of any document produced;
 - any person to state, to the best of that person's knowledge and belief, the location of any document that the Commission's officers consider to be related to any matter relevant to the investigation;
 - any information stored in any electronic form and accessible from the premises that the Commission's officers consider to be related to any matter relevant to the investigation, to be produced in a form in which it can be read and taken away; and
 - the taking of any other steps that appear necessary to preserve the documents or prevent interference with them – eg, sealing such rooms or cabinets for such time as is reasonably necessary to enable the inspection to be completed (this period will not be longer than 72 hours, except where an undertaking consents to a longer time or where access to documents is unduly delayed, such as by the unavailability of a person who can provide access).

The Commission may also enter premises without a warrant by providing written notice at least two working days in advance of intended entry. While the Commission's officers will not have the ability to actively search the premises, they have the power to require:

- any person on the premises to produce any document that the Commission's officers consider related to any matter relevant to the investigation – eg, minutes of any meet-

Furthermore, the Commission has the power to interview occupants on the premises being inspected without having to serve a written notice, require individuals to answer any question relating to the investigation, and any information provided verbally must be put in writing, read to the individual, and after correction (if any), signed by the individual. If the individual does not understand English, the information recorded will be interpreted in a language that the individual understands.

Where an infringement of a prohibition under the Competition Act is found, the Commission has the general discretion to give any directions it

considers appropriate to stop the infringement and, where necessary, require such action to be taken as is specified in the direction to remedy, mitigate or eliminate any adverse effects of such infringement and to prevent the recurrence of such infringement.

In relation to anti-competitive agreements, direction may require parties to:

- modify or terminate the agreement that infringed the prohibition;
- enter into legally enforceable agreements designed to prevent or lessen the anti-competitive effects that have arisen;
- dispose of operations, assets or shares in undertakings in such manner as may be specified by the Commission;
- provide a performance bond, guarantee, or other forms of security on such terms and conditions as the Commission may determine; and/or
- where the infringement is committed intentionally or negligently, pay such financial penalty as the Commission may determine, which may not exceed 10% of a party's business turnover in Singapore for each year of infringement, up to a maximum of three years.

To date, the Commission has conducted 21 investigations into anti-competitive agreements such as bid rigging and price fixing, 19 of which have concluded with infringement decisions issued and two that remain pending.

Recent Enforcement Activity

In recent years, the Commission has increased its enforcement activity. In the 2023 fiscal year (ie, 1 April 2023 to 31 March 2024), the Commission completed eight preliminary enquiries into cases, which is double the amount of the previous two years.

The Commission issued two infringement decisions in 2024. One infringement decision was in relation to bid rigging for tenders for interior fit-out construction services, where a total of nearly SGD10 million in financial penalties were imposed on two companies. This is the highest penalty issued by the Commission for a bid-rigging case in Singapore.

The other infringement decision was in relation to the procurement of vulnerability management software by a publicly funded polytechnic. Notably, this is the first time where an infringement decision was issued against an individual. In this case, sham bids were submitted by the individual on behalf of two newly incorporated companies, as part of a bid-rigging arrangement. The individual was the director of one of the newly incorporated companies, and the company secretary for the other.

In 2024, the Commission also issued two proposed infringement decisions, one in relation to bid-rigging public sector tenders involving two construction companies for rigging bids in public sector tenders, and another in relation to the unlawful exchange of price information by two remittance service providers. As of 12 April 2025, both investigations are still ongoing.

It is expected that the Commission will continue to strive to ensure rigorous, timely and effective enforcement, with stepped-up enforcement actions and enhanced investigative capacity within the Commission.

Rise of the Digital Era *E-commerce platforms*

In 2020, the Commission had conducted a market study on e-commerce platforms. With the rise of the digital era and the increase in popularity of e-commerce platforms, the Commis-

sion was interested in gaining a more in-depth understanding of the business models of such e-commerce platforms and the competitive dynamics within which they operate. With the proliferation of such e-commerce platforms, the market study sought to identify potential competition and consumer issues which may arise. The market study recommends ways to ensure that the Commission's framework and toolkits are future-ready and appropriately contextualised to address potential issues that may arise.

Pursuant to the market study, the Commission recommended that undertakings should be careful when utilising artificial intelligence (AI) or algorithms, to ensure that such use does not support or facilitate any pre-existing or intended anti-competitive agreement or concerted practice. With the further development of AI, the Commission will continue to closely monitor the area, and issue further guidance where appropriate.

As e-commerce platforms become increasingly relevant in today's day and age, companies seeking to do business via such platforms should be careful to ensure that they do not infringe the Competition Act, and to implement safeguards to ensure that they would not be found to have infringed the Competition Act unknowingly.

Protecting and empowering consumers in the digital transition

On 8 October 2024, the Commission's Assistant Chief Executive represented Singapore at the inaugural Organisation for Economic Co-operation and Development (OECD) Consumer Policy Ministerial Meeting and made an intervention for ASEAN on the topic "*Protecting and Empowering Consumers in the Digital Transition*".

In 2023, the Commission established the Data and Digital (D2) Division, designed to improve the efficiency and effectiveness of the Commission's enforcement and advocacy functions. Officers in this division are trained in skills such as machine learning and data analytics. The D2 Division utilises data analytics to supplement decision-making processes, provides expertise and technical knowledge and represents the Commission in international engagements on technological developments in competition enforcement.

Digital tools

With an increase in the use of AI systems and algorithms on digital platforms, competition concerns arise both from the use and provision of AI. For instance, the Commission noted that where AI is used to make pricing decisions and in price-monitoring systems on digital platforms, this increases the risk of collusion between undertakings by allowing them to collect and analyse data in relation to their competitors. Industry-wide use of a single AI system to determine prices may result in co-ordination of pricing strategies. Further, the rapidly growing AI industry gives rise to concerns such as market consolidation and potential restrictions on key inputs such as data.

In response to the evolving theories of harm surrounding AI and competition in the digital landscape, the Commission has begun to leverage AI tools in cartel activity detection and enforcement, in line with the Commission's objective to increase efficiency and productivity of its enforcement activities.

To streamline investigative processes, the Commission has developed "*Complaint Analytics*" tool that automates the analysis of complaints received on a day-to-day basis. The Commis-

sion is also exploring how AI can be used to identify potential infringements of competition law, through their in-house “*Bid-Rigging Detection Tool*” which detects potential bid-rigging activity from similarities in tender documents. AI tools developed by other government agencies will also be adopted in the Commission’s day-to-day operations, such as AI writing tool “*SmartCompose*”, which generates accurate responses to email enquiries and verifies documents submitted to the Commission. The use of AI tools has and will continue to reduce reliance on manpower resources previously relied on for manual processing.

Beyond adopting AI tools in-house, the Commission has also worked closely with other public agencies to develop extensions to government-developed AI systems such as the “*AI Verify*” toolkit launched in 2022. This toolkit allows companies to conduct standardised testing and, among other uses, identify potential competition concerns that may arise from the deployment of their AI systems.

Developing industry standards

The Commission has advocated for the responsible use of AI tools and also engaged industry stakeholders in the digital markets to update Singapore’s national standards for electronic commerce transactions, such as the Technical Reference 76: Guidelines for E-Commerce Transactions which set out best practices for digital platforms and online businesses and help them manage competition and consumer protection risks. The guidelines integrate core principles regarding the responsible use of AI set out in the Model AI Governance Framework, which the Commission considers applicable to undertakings managing competition law risks arising from the use of AI systems.

Environmental Sustainability

On 1 March 2024, the Commission issued a Guidance Note on Business Collaborations Pursuing Environmental Sustainability Objectives (“*Environmental Sustainability Collaboration Guidance Note*”), which aims to clarify how the Commission will assess business collaborations pursuing environmental sustainability objectives in the context of the prohibitions in the Competition Act.

Among other provisions, the Environmental Sustainability Collaboration Guidance Note sets out a streamlined notification process in relation to assessments of collaborations pursuing environmental sustainability objectives, for businesses that notify their agreements to the Commission.

On 3 January 2025, the Commission issued positive guidance in the first case under the streamlined process, in relation to the joint establishment and operation of Beverage Container Return Scheme Ltd (BCRS Ltd.), by Coca-Cola Singapore Beverages Pte. Ltd., F&N Foods Pte Ltd and Pokka Pte. Ltd. BCRS Ltd. is a not-for-profit company licensed by the Singapore National Environment Agency (NEA) to design and operate the Beverage Container Return Scheme (“*BCR Scheme*”) in Singapore, targeted to be launched on 1 April 2026. Pursuant to the BCR Scheme, pre-packaged beverages in plastic and metal containers will have a refundable deposit, which will be fully refunded when empty beverage containers are returned at designated return points.

The parties involved had applied to the Commission for guidance on whether the joint establishment and operation of BCRS Ltd. is likely to violate the prohibitions against cartel activities and abuse of dominance under the Competition Act. The Commission expects that this case will

be significant in advancing Singapore's national climate target to achieve net-zero emissions by 2050, and is unlikely to infringe the prohibitions.

With the above positive guidance, companies are encouraged to pursue environmental sustainability objectives, and to notify the Commission to reduce any risk of infringement.

Conclusion

It is expected that the Commission will continue to maintain a strong enforcement presence to ensure that anti-competitive behaviour is reduced. With the rise of the digital era, digital players may face greater scrutiny, and the Commission may also begin to adopt the use of digital tools in cartel activity detection and enforcement. In line with Singapore's environmental sustainability goals, there may also be a rise in collaborations pursuing environmental sustainability objectives, which may receive positive guidance from the Commission.

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