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Practical cross-border insights into merger control issues

Merger Control
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1 Relevant Authorities and Legislation

1.1 Who is/are the relevant merger authority(ies)?

The relevant authority that oversees the general merger regime in Singapore is the Competition and Consumer Commission of Singapore ("**Commission**"). The Commission is a statutory body under the purview of the Ministry of Trade and Industry, established to administer and enforce the Competition Act 2004 ("**Competition Act**"). The Commission conducts investigations, makes decisions, and has the power to impose sanctions pursuant to the Competition Act.

1.2 What is the merger legislation?

Section 54 of the Competition Act, with some exclusions (set out in the Fourth Schedule to the Competition Act), applies generally to prohibit, amongst other things, mergers and acquisitions that have resulted, or may be expected to result, in a substantial lessening of competition within any market in Singapore for goods or services ("**Section 54 Prohibition**").

1.3 Is there any other relevant legislation for foreign mergers?

There is no separate legislation for foreign mergers. Subject to the exceptions set out in the Fourth Schedule to the Competition Act, the Competition Act can apply to any merger or anticipated merger notwithstanding that the merger takes place outside of Singapore or that any party to the merger resides outside of Singapore.

Singapore does not have general legislation prohibiting, or requiring consent for, foreign investment.

1.4 Is there any other relevant legislation for mergers in particular sectors?

Some industry sectors, such as telecommunications, media, gas and electricity, have sector-specific laws on competition, which include merger control laws. These industry sectors are carved out from the Competition Act in the Third and Fourth Schedules to the Competition Act, and the sectoral regulators enforce their respective industry-specific competition rules.

According to the Commission's *Guidelines on the Major Competition Provisions*, the Commission will work with the relevant sectoral regulator on cross-sectoral competition matters in order to determine which regulator is best placed to handle the case in accordance with the legal powers provided to each regulator.

1.5 Is there any other relevant legislation for mergers which might not be in the national interest?

The Fourth Schedule to the Competition Act states, among other things, that the Section 54 Prohibition shall not apply to any merger that is approved by any Minister or regulatory authority (other than the Commission), pursuant to any requirement for such approval imposed by any written law. In this regard, a merger involving a bank incorporated in Singapore requires the prior written approval of the Minister pursuant to the Banking Act 1970, and in approving such an application, the Minister must be satisfied that it is in the national interest to do so.

Additionally, the Fourth Schedule to the Competition Act provides that the Section 54 Prohibition shall not apply to mergers relating to the supply of licensed and regulated ordinary letter and postcard services, potable piped water, wastewater management services, licensed bus services, licensed and regulated rail services, or licensed and regulated cargo terminal operations. During the Second Reading of the Competition Bill, it was explained that these are highly specialised sectors that require more active intervention and regulations, particularly since these services were originally monopoly services provided for public good by the government, and deep and significant technical, public policy and strategic interests are involved in opening up these sectors. It should be noted that the exclusion of these sectors from the Competition Act is not intended to protect these sectors, given that mergers in such sectors are governed by sector-specific regulators.

In respect of mergers regulated under the Competition Act, Sections 58A and 67 of the Competition Act provide that if the Commission has reasonable grounds for suspecting that the Section 54 Prohibition will be infringed or has been infringed, but has not completed its consideration of the matter, the Commission may issue directions imposing interim measures it considers necessary for various purposes, including to protect the public interest. Examples of interim measures include suspending the merger or setting limits on the exchange of commercially sensitive information.

2 Transactions Caught by Merger Control Legislation

2.1 Which types of transaction are caught – in particular, what constitutes a "merger" and how is the concept of "control" defined?

Section 54(2) of the Competition Act provides that a merger occurs where:

- two or more undertakings, previously independent of each other, merge;

- one or more persons or other undertakings acquire direct or indirect control of the whole, or part, of one or more other undertakings; or
- one undertaking acquires the assets (including goodwill), or a substantial part of the assets, of another undertaking, with the result that the acquiring undertaking is placed in a position to replace or substantially replace the second undertaking in the business (or the part concerned of the business) in which the second undertaking was engaged immediately before the acquisition.

The transfer or pooling of assets may also give rise to a merger. Section 54(5) of the Competition Act also provides that the creation of a joint venture to perform, on a lasting basis, all the functions of an autonomous economic entity, constitutes a merger falling within the purview of the Competition Act.

Section 54(3) of the Competition Act defines control as the ability to exercise decisive influence over the activities of another party by reason of any rights, contracts or other means. The existence of control is determined by whether decisive influence is capable of being exercised, rather than the actual exercise of such influence.

Control may be obtained through:

- ownership of, or the right to use all or part of, the assets of an undertaking; or
- rights or contracts that enable decisive influence to be exercised with regard to the composition, voting or decisions of the organs of an undertaking.

The Commission states in its *Guidelines on the Substantive Assessment of Mergers* ("**Substantive Guidelines**") that an assessment of the concept of control involves qualitative rather than quantitative criteria and will include considerations of both law and fact. The Substantive Guidelines set out two scenarios under which a party may acquire control: (i) legal control; and (ii) *de facto* control.

For the acquisition of legal control, the Commission considers that decisive influence is generally deemed to exist if there is ownership of more than 50% of the voting rights. Where the ownership is between 30% and 50% of the voting rights of the undertaking, there is a rebuttable presumption that decisive influence exists. "Voting rights" refers to all the voting rights attributable to the share capital of an undertaking that are currently exercisable at a general meeting. However, these thresholds are only indicative, and control could potentially be established at levels below these thresholds if other relevant factors provide strong evidence of control. Other forms of voting rights will also be taken into account in assessing control.

Besides legal ownership through the acquisition of property rights and securities, *de facto* control may also be established. There is no precise criterion for determining when an acquirer gains *de facto* control of an undertaking's activities, and the Commission adopts a case-by-case approach, taking into account all relevant circumstances.

In determining whether decisive influence is capable of being exercised, the Commission will consider all circumstances, and not solely rely on the legal effect of any instrument, deed, transfer, assignment or other act. In particular, pure economic relationships may also play a decisive role in certain circumstances. It is unlikely that an option to purchase or convert shares can confer control unless the option will be exercised in the near future according to legally binding agreements. However, the Commission may consider the likely exercise of such an option in totality with other factors in its assessment of whether control exists.

2.2 Can the acquisition of a minority shareholding amount to a "merger"?

In the Commission's determination of whether a party possesses control and, therefore, whether the transaction constitutes a merger situation under the Competition Act, it is possible that decisive influence may be capable of being exercised by a person who acquires a minority interest. For example, control may exist where minority shareholders have additional rights that permit them to veto decisions that are essential for the strategic commercial behaviour of the undertaking, such as the budget, business plans, major investments, the appointment of senior management or market-specific rights. Please see question 2.1 for further details on the Commission's considerations in relation to control.

2.3 Are joint ventures subject to merger control?

Joint ventures are subject to merger control if they fulfil the definition of a "merger" under the Competition Act. A joint venture constitutes a merger when:

- it is subject to joint control;
- it operates in the market and performs all the functions of an autonomous economic entity operating in that market; and
- it is intended to operate on a lasting basis.

A joint venture that relies almost entirely on sales to its parent companies or purchases from them for an initial start-up period may still constitute a merger and fulfil the criteria of a joint venture performing all the functions of an autonomous economic entity. Such arrangements during the start-up period may be necessary in order for the joint venture to establish itself in a market. The essential question is whether, in addition to these sales, the joint venture is geared to play an active role in the market. In this respect, the relative proportion of these sales compared with the total production of the joint venture is an important factor. Another factor to consider is whether sales to the parent companies are made under normal commercial conditions.

A joint venture that is a brand-new start-up business, which has not previously traded and which is not acquiring an existing business from its parents (or an independent vendor), may constitute a merger if it meets the criteria for an entity subject to joint control that operates on a lasting basis in the market, and operates as an autonomous economic entity. The question of whether the joint venture is operating on a lasting basis is informed by considering whether the duration specified in the joint venture agreement is sufficiently long in order to bring about a lasting change in the structure of the undertakings concerned.

A joint venture that is purely contractual with no creation of a new legal entity as the vehicle for the joint venture activities may be considered a merger under the Competition Act if it is nonetheless able to conduct, on a lasting basis, its business activities within the area provided for in the joint venture agreement. For example, it must be able to have management dedicated to its day-to-day operations and access to sufficient resources, including finance, staff and assets (tangible and intangible). In determining whether a joint venture constitutes a merger, the Commission will consider all circumstances, and not solely rely on the legal effect of any instrument, deed, transfer, assignment or other act.

Regardless of its status as a legal entity, the joint venture must also be subject to joint control, which is defined as two or more parties having the possibility of exercising decisive influence over an undertaking. Decisive influence in this context includes the power to block actions that determine the strategic commercial behaviour of an undertaking.

2.4 What are the jurisdictional thresholds for application of merger control?

As notification is voluntary, there are no jurisdictional thresholds for notification. However, the Commission has stated in its *Guidelines on Merger Procedures* ("**Procedural Guidelines**") that it is unlikely to investigate a merger situation that only involves small companies, namely where the turnover in Singapore in the financial year preceding the transaction of each of the parties is below S$5 million, and the combined worldwide turnover in the financial year preceding the transaction of all the parties is below S$50 million. Additionally, the Commission has provided in its Substantive Guidelines and its Procedural Guidelines that it is unlikely to consider that a merger or anticipated merger will raise competition concerns unless:

- the merged entity will have a market share of 40% or more; or
- the merged entity will have a market share of between 20% and 40% and the post-merger combined market share of the three largest firms, that is, the concentration ratio of the three largest firms in the market ("**CR3**"), is 70% or more.

However, the Commission may also investigate mergers even if they fall below the indicative thresholds. Market concentration is only one of the various factors that the Commission considers in assessing a merger. As such, mergers that do not meet the thresholds can nevertheless raise competition concerns and be investigated by the Commission.

2.5 Does merger control apply in the absence of a substantive overlap?

Merger control also applies to vertical and conglomerate mergers where such mergers can lead to foreclosure of the market, increased potential for collusion, and/or the increased feasibility of anticompetitive strategies, regardless of whether there is a substantive overlap in the merger parties' activities.

Vertical mergers are mergers between firms that operate at different levels in the production or distribution chain. Vertically integrated firms may be able to foreclose the market to rivals by, for example, refusing to supply products to downstream rivals or by increasing the prices of such products such that downstream rivals will be placed at a cost disadvantage. The Commission, in its Substantive Guidelines, acknowledges that, in rare cases, vertical mergers may facilitate collusion by creating or strengthening coordinated effects in the following ways:

- by enabling the merged entity to gain access to commercially sensitive information about the activities of non-integrated rivals;
- by increasing market transparency between firms. Such concerns may arise, for example, where vertical integration affords the merged entity better knowledge of selling prices in the upstream or downstream market, which facilitates tacit collusion in either of the markets; or
- by better aligning the incentives of firms in the market to maintain coordination.

Conglomerate mergers are mergers between firms operating in different product markets. While conglomerate mergers typically do not lead to a substantial lessening of competition, competition concerns could arise in mergers between parties in closely related markets. For example, mergers in closely related markets may involve sellers of complementary products, or sellers of (distinct or related) products that belong to a range of products that are generally purchased or likely to be purchased together by the same set of buyers for the same end use.

2.6 In what circumstances is it likely that transactions between parties outside your jurisdiction ("foreign-to-foreign" transactions) would be caught by your merger control legislation?

The Competition Act applies to any merger or anticipated merger that substantially lessens competition or may substantially lessen competition for goods and services in any market in Singapore, regardless of whether merger parties have a local presence within Singapore.

2.7 Please describe any mechanisms whereby the operation of the jurisdictional thresholds may be overridden by other provisions.

As mentioned above, there are no jurisdictional thresholds for notification as Singapore has a voluntary notification regime. The Competition Act provides for exemptions from the Section 54 Prohibition on the grounds of public interest with the approval of the Minister for Trade and Industry. Ministerial exemption may be exercised upon the application of a merger party that has been notified that the Commission proposes to issue a decision that the Section 54 Prohibition has been infringed. Additionally, the Section 54 Prohibition does not apply to any merger:

- approved by any Minister or regulatory authority (other than the Commission), pursuant to any requirement for such approval imposed by any written law;
- approved by the Monetary Authority of Singapore established under Section 3 of the Monetary Authority of Singapore Act 1970 pursuant to any requirement for such approval imposed under any written law; or
- under the jurisdiction of any regulatory authority (other than the Commission) under any written law relating to competition, or code of practice relating to competition issued under any written law.

2.8 Where a merger takes place in stages, what principles are applied in order to identify whether the various stages constitute a single transaction or a series of transactions?

The Commission does not set out precise criteria for how it will assess mergers that take place in stages. As stated in question 2.1 above, the key consideration will be the stage at which decisive influence is established. As such, the Commission may consider the point at which the acquirer gains ownership of more than 50% of the voting rights or *de facto* control of an undertaking's activities (based on a case-by-case assessment of the particular circumstances) to be the relevant merger situation.

3 Notification and its Impact on the Transaction Timetable

3.1 Where the jurisdictional thresholds are met, is notification compulsory and is there a deadline for notification?

Merger notification is voluntary, and as such, the Competition Act does not stipulate any thresholds or deadlines for notification. Instead, parties are strongly encouraged to self-assess whether they should notify the Commission. The Commission provides indicative market share thresholds for mergers that will likely raise competition concerns (please see question 2.4 above). For anticipated mergers, an application can only be made once the parties have a *bona fide* intention to proceed with the transaction and the merger has been made public (or if the parties have no objection to the Commission publicising their merger).

3.2 Please describe any exceptions where, even though the jurisdictional thresholds are met, clearance is not required.

The situation described is not relevant to Singapore as merger notification is not mandatory in Singapore. However, merger parties should notify the Commission if they have serious concerns as to whether the merger has resulted, or may be expected to result, in a substantial lessening of competition in a market in Singapore.

3.3 Is the merger authority able to investigate transactions where the jurisdictional thresholds are not met? When is this more likely to occur and what are the implications for the transaction?

As merger notification is voluntary, the market share thresholds are indicative, and not jurisdictional. The Commission may conduct an investigation of mergers that come to its attention whenever there are reasonable grounds for suspecting that a merger has infringed, or that an anticipated merger, if carried into effect, will infringe, the Section 54 Prohibition.

3.4 Where a merger technically requires notification and clearance, what are the risks of not filing? Are there any formal sanctions?

As mentioned in question 3.1 above, merger notification is voluntary in Singapore. The Commission may impose a financial penalty if it finds that the merger infringes the Section 54 Prohibition and that the infringement has been committed intentionally or negligently. The financial penalty imposed may not exceed 10% of the turnover of the business of the undertaking in Singapore for each year of infringement, up to a maximum of three years. To date, there has been only one case in which the Commission has imposed a financial penalty in respect of a negligent or intentional infringement of the Section 54 Prohibition; namely, Grab's acquisition of Uber's Southeast Asian business in March 2018 in consideration of Uber's acquisition of a 27.5% stake in Grab ("***Grab-Uber***") (please see question 6.2 below). There are no criminal penalties for failing to notify a merger to the Commission.

The Commission has the ability to "unwind" a merger that has already been carried out or direct the merger parties to undertake actions necessary to remedy, mitigate or prevent the adverse effects caused by the merger. As such, merger parties that proceed with any merger that exceeds the indicative thresholds, or possesses characteristics that may indicate that a substantial lessening of competition in any market in Singapore might arise, do so at their own commercial risk.

3.5 Is it possible to carve out local completion of a merger to avoid delaying global completion?

There is no requirement for parties to suspend the implementation of a merger or anticipated merger prior to clearance. Therefore, merger parties may proceed with the integration of the merger prior to the Commission's clearance of the merger in Singapore. However, parties should note the risks in the event that the Commission ultimately finds that the merger infringes the Section 54 Prohibition (please see question 3.4 above).

3.6 At what stage in the transaction timetable can the notification be filed?

Notification can be made as soon as it may be made known to the public. Notification can also be made at any time for completed mergers.

Where mergers are confidential, subject to Section 55A of the Competition Act and the Procedural Guidelines, parties may seek confidential advice from the Commission as to whether the view of the Commission is that the anticipated merger, if carried into effect, is likely to infringe the Section 54 Prohibition. This option permits merger parties to engage the Commission at an early stage, in order to seek guidance on mergers that are not yet in the public domain (unlike a merger notification, which is conditional on the transaction being non-confidential in order for the Commission to approach third parties for information).

The Commission may issue the advice if the following conditions are met:

- there must be a good faith intention to proceed with the transaction, as evidenced to the satisfaction of Commission by the party or parties requesting the confidential advice;
- the anticipated merger must not be in the public domain. In exceptional circumstances, the Commission may consider giving confidential advice in relation to anticipated mergers that are no longer confidential; however, the requesting party or parties must provide good reasons for why they wish to receive confidential advice and not proceed with a notification; and
- the merger situation raises a genuine issue relating to the competitive assessment in Singapore (i.e., there must be some doubt as to whether the merger situation raises concerns such that notification may be appropriate).

The requesting party or parties are also expected to keep the Commission informed of significant developments in relation to the merger situation in respect of which confidential advice was obtained; for example, completion date or abandonment of the merger.

It should be noted that such confidential advice is not binding on the Commission, and the Commission may investigate the merger situation.

Notwithstanding, the Commission may refuse to issue the confidential advice if it is of the view that, given the facts and circumstances of the anticipated merger, the parties of the anticipated merger are able to assess whether a formal notification of the anticipated merger under Section 57 of the Competition Act should be made without advice.

3.7 What is the timeframe for scrutiny of the merger by the merger authority? What are the main stages in the regulatory process? Can the timeframe be suspended by the authority?

There are two phases of review. In both phases, there is no statutory period within which the Commission must conclude its assessment of a notified merger. However, as set out in the Procedural Guidelines, a Phase 1 review is expected to be completed within an indicative timeframe of 30 working days, where day one is the working day after the Commission receives a completed Form M1. A Phase 1 review entails a quick review and enables merger situations that clearly do not raise any competition concerns to proceed without undue delay. By the end of Phase 1, the Commission will decide whether to issue a favourable decision to permit the merger situation to proceed or to continue to a Phase 2 review.

The Commission will proceed to a Phase 2 review if it is unable to conclude that a merger situation does not raise competition concerns and is of the view that a more detailed examination of the merger is required. Should the Commission find that it is necessary to proceed to a Phase 2 review, the indicative timeframe for a Phase 2 review to be completed within is 120 working days, which commences when the Commission notifies the applicant that the merger situation has proceeded to a Phase 2 review, and after the Commission receives a complete Form M2 and a response to the Phase 2 information request that the Commission deems satisfactory. In any case, the Phase 2 review period will not commence until the expiry of the indicative timeframe of 30 working days for the Phase 1 review.

In the event that the case team identifies competition concerns in Phase 1 that indicate that a favourable decision at Phase 1 cannot be issued, and hence a Phase 2 review may be appropriate, it will communicate those concerns to the applicant in writing, setting out the main competition concerns that have been identified (“**Phase 1 Issues Letter**”). The applicant will be given an opportunity to respond to the Phase 1 Issues Letter. The Phase 1 Issues Letter will contain a deadline for the applicant to offer commitments or to submit a Form M2.

Parties should note that the indicative timeframes for review of a merger notification commence only when the Commission receives a complete form that meets all the applicable filing requirements, accompanied by the relevant supporting documents and the appropriate fee. Merger parties should therefore ensure that the relevant forms are complete and meet all the filing requirements in order to avoid any unnecessary delay.

The Commission has the power to “stop the clock” if the applicant fails to provide additional information requested by the Commission within the timeframe (or any extensions) given. The Commission may also suspend the timeframe during the period of negotiation over commitments. There is no statutory maximum for extensions.

With respect to the process for a confidential opinion from the Commission, the Commission has stated in its Procedural Guidelines that it expects to be able to provide the opinion within 14 working days of receipt of all the required information from the merger parties.

3.8 Is there any prohibition on completing the transaction before clearance is received or any compulsory waiting period has ended? What are the risks of completing before clearance is received? Have penalties been imposed in practice?

As mentioned in question 3.1 above, notification is voluntary and there is no compulsory waiting period, nor is there a requirement for parties to suspend the implementation of a merger or anticipated merger prior to clearance. In this regard, merger parties may choose to carry out a merger, or further integrate a merger, without notifying the Commission. Merger parties who have notified their merger situation may also proceed with their merger, or with further integration, before the Commission has issued a decision. However, such actions are carried out at the parties’ own risk.

If the Commission has reasonable grounds for suspecting that a merger has infringed, or that an anticipated merger, if carried into effect, will infringe, the Competition Act, the Commission may impose interim measures to address any such concerns at its discretion. Interim measures can include suspending a merger situation in order to prevent merger parties from taking actions that would prejudice its ability to consider the merger situation further and/or the imposition of appropriate remedies. Such interim measures may also be imposed as a matter of urgency to prevent serious, irreparable damage to a particular person or category of persons, or to protect the public interest. In practice, the Commission has exercised its powers to impose interim measures in one case, namely the *Grab-Uber* merger.

Merger parties that have notified their merger situation and proceeded with their merger prior to the issuance of the Commission’s decision risk their merger being unwound in the event that the notification process ends in an unfavourable decision. The Commission may also direct the merger parties to undertake actions to remedy, mitigate or prevent the adverse effects caused by the merger. If the merger infringes the Competition Act, the Commission may also impose a financial penalty on the merger parties if the infringement has been committed intentionally or negligently. In the *Grab-Uber* case, the Commission imposed directions to lessen the impact of the merger on drivers and riders and to open up the market and level the playing field for new players as well as financial penalties totalling S$13,001,702 on Grab and Uber.

3.9 Is a transaction which is completed before clearance deemed to be invalid? If so, what are the practical consequences? Can validity be restored by a subsequent clearance decision?

As mentioned, notification is voluntary. Therefore, completed transactions are valid notwithstanding that the Commission may direct merger parties to unwind the merger if it determines that they have breached the Section 54 Prohibition.

3.10 Where notification is required, is there a prescribed format?

Notification is not mandatory; however, parties seeking to notify their merger will have to submit a duly completed Form M1 for a Phase 1 review. Where the Commission has determined that it is necessary to proceed to a Phase 2 review, applicants are required to submit a duly completed Form M2 and/or a response to a Phase 2 information request. Both forms are available on the Commission’s website at https://www.cccs.gov.sg.

Form M1 requires:

- information relating to the applicant(s) and other parties to the merger;
- a description of the nature of the merger and information on the groups to which the parties to the merger belong;
- information on activities of the merger parties and the industries to which the merger parties belong;
- market definition; and
- information on the reportable markets, among other things.

Information on ancillary restrictions may be included if they are to be included as part of the notification.

Form M2 requires further information, including:

- the market conditions in the relevant markets, such as the structure of demand and supply;
- the position of the relevant undertakings in the relevant product markets;
- the importance of research and development and the prevalence of cooperative agreements;
- possible efficiency gains arising from the merger;
- the likely effects of the merger; and
- any applicable failing firm or division arguments that the merger parties wish to submit.

Merger parties intending to make an application may approach the Commission for a confidential pre-notification discussion (“**PND**”) before submitting Form M1, in order to facilitate their preparation and expedite the review process. Whilst the Commission encourages PNDs for anticipated mergers that may not yet be in the public domain, the Commission will not entertain discussions on speculative or hypothetical transactions. Merger parties seeking a PND should submit a request to the Commission in writing and provide details of the merger, including a brief background of the merger, a brief description of the relevant markets and the likely impact of the merger on competition in general terms. The Commission will advise on the information needed to provide a complete submission and any other useful information that might expedite its review during the PND.

Parties should note that even where the applicant has submitted complete Forms M1 or M2, during its review process, the Commission may require the applicant to provide additional information, over and above that required in Forms M1 and M2.

3.11 Is there a short form or accelerated procedure for any types of mergers? Are there any informal ways in which the clearance timetable can be speeded up?

A Phase 1 review is essentially a short form review. Notified mergers that do not raise competition concerns are permitted to proceed after Phase 1, which is expected to be completed within 30 working days.

As mentioned in the response to question 3.10 above, merger parties intending to notify their transaction may approach the Commission for a confidential PND before submitting Form M1, in order to facilitate the preparation of the notification. The PND helps merger parties identify the information needed in order to provide a complete submission, as well as any additional useful information that might expedite the Commission's review of a merger situation.

3.12 Who is responsible for making the notification?

The Commission encourages all relevant parties involved in the merger situation to jointly submit a notification, as a joint application will enable a speedier consideration of the merger situation. Alternatively, any party to the merger situation may make a notification to the Commission.

3.13 Are there any fees in relation to merger control?

The fees payable for notification of a merger depend on the turnover of the undertaking/assets acquired in the merger, or whether the acquiring party in a merger is a small or medium-sized enterprise ("**SME**").

In general, the filing fees for mergers are as follows:

- where the net aggregate turnover of the target undertaking or asset is equal to, or less than, S$200 million, the fee payable is S$15,000;
- where the net aggregate turnover of the target undertaking or asset is between S$200 million and S$600 million, the fee payable is S$50,000; and
- where the net aggregate turnover of the target undertaking or asset is above S$600 million, the fee payable is S$100,000.

The filing fees for mergers involving only acquirers or merger parties that are SMEs will be S$5,000. SMEs are defined in the Competition (Fees) Regulations 2007 as undertakings with:

- an annual sales turnover of not more than S$100 million; or
- no more than 200 employees.

3.14 What impact, if any, do rules governing a public offer for a listed business have on the merger control clearance process in such cases?

Public offers involving listed companies in Singapore are governed by the Listing Rules issued by the Singapore Exchange and the Singapore Code on Take-overs and Mergers. These rules do not affect the merger control processes administered by the Commission.

However, merger parties to confidential mergers, such as mergers involving listed businesses, may seek confidential advice from the Commission as to whether their transaction is likely to raise competition concerns. For more details on seeking confidential advice from the Commission, please refer to question 3.6 above.

3.15 Will the notification be published?

The Commission will publish a notice on its public register on its website (https://www.cccs.gov.sg) when a merger is notified to the Commission. The Commission will subsequently publish its decision, with confidential information redacted, in its public register.

4 Substantive Assessment of the Merger and Outcome of the Process

4.1 What is the substantive test against which a merger will be assessed?

The Commission uses the "substantial lessening of competition" test to assess whether a merger infringes the Section 54 Prohibition. For the Commission to clear the merger, parties must demonstrate that the merger does not, or will not be expected to, result in a substantial lessening of competition within any market in Singapore for goods or services. In applying the substantial lessening of competition test, the Commission will evaluate the prospects for competition in the future with and without the merger (i.e., the factual and the counterfactual).

The Commission will consider the prevailing conditions of competition in the market without the merger as the best guide to the appropriate counterfactual in most cases. In its consideration of the counterfactual, the Commission will also take into account likely and imminent changes in the structure of competition in order to reflect as accurately as possible the nature of rivalry in the relevant market without the merger. For instance, in cases where one of the parties is a failing firm, the pre-merger conditions of competition might not prevail even without the merger.

A merger or anticipated merger may be exempted on the grounds of public interest with the approval of the Minister for Trade and Industry (please see questions 2.7 and 4.3).

4.2 To what extent are efficiency considerations taken into account?

The Commission indicates in its Substantive Guidelines that it will take into account efficiency considerations at two separate points in assessing a merger situation.

At the initial stage, the Commission considers whether the efficiencies increase rivalry in the market such that no substantial lessening of competition would likely result. For example, a merger between two of the smaller firms in a market may result in efficiencies that enable the merged entity to exert more competitive pressure on its larger competitors. Efficiencies may also be taken into account where they are shown to be sufficient to outweigh any adverse effect to competition in Singapore as a result of the merger (i.e., net economic efficiencies). In such cases, the Fourth Schedule to the Competition Act provides that the Section 54 Prohibition would not apply to such a merger.

4.3 Are non-competition issues taken into account in assessing the merger?

The Minister for Trade and Industry is empowered under the Competition Act to exempt a merger or anticipated merger on the grounds of any public interest consideration. The power may be exercised upon the application of a merger party that has been notified that the Commission proposes to issue a decision that the Section 54 Prohibition has been infringed.

4.4 What is the scope for the involvement of third parties (or complainants) in the regulatory scrutiny process?

The Commission will publish details of notified mergers accepted by the Commission on the public register found on its website at https://www.cccs.gov.sg. All interested third parties may provide comments to the Commission. In general, all interested third parties are encouraged to submit their comments within 10 working days after the notified merger is published on the public register, to allow the Commission sufficient time to give due consideration to the comments. Complainants are encouraged to use the Commission's merger complaint form found on its website. The Commission may ask the complainant for further information and clarification. A complainant should raise concerns about the disclosure of his or her identity and confidentiality of information provided with the Commission as soon as possible.

In its review process, the Commission also requires the contact details of customers, suppliers and competitors to be provided by the merger parties in the notification forms, to allow the Commission to obtain feedback in relation to the notified mergers.

4.5 What information gathering powers (and sanctions) does the merger authority enjoy in relation to the scrutiny of a merger?

The Commission may request more comprehensive information from an applicant in addition to the information submitted in Forms M1 or M2. The Commission will typically set deadlines for parties to respond to such requests, and a failure to meet these deadlines could result in the Commission "stopping the clock", or the Commission may determine the notification to be void. Section 61A of the Competition Act also empowers the Commission to require any person to provide information or documents that would assist the Commission in its assessment, when the Commission has reasonable grounds to suspect that the Section 54 Prohibition has been or will be infringed.

To the extent that a person fails to comply with a request made under Section 61A of the Competition Act, intentionally or recklessly destroys or otherwise disposes of, falsifies or conceals information or documents requested by the Commission, provides the Commission with false or misleading information, or obstructs an officer of the Commission in the discharge of his/her duties, such person may be found guilty of a criminal offence and be liable on conviction to a fine not exceeding S$10,000, or to imprisonment for a term not exceeding 12 months, or both.

4.6 During the regulatory process, what provision is there for the protection of commercially sensitive information?

When submitting an application, applicants must provide the Commission with all relevant information, including information that may be confidential. Where confidentiality is claimed over certain information provided, a non-confidential version excluding all confidential information must be provided to the Commission. Parties must also explain why such information is confidential.

The Commission may share the non-confidential information with third parties; for example, by publishing the information on the Commission's website. Furthermore, if the Commission rejects the reasons for confidentiality or is of the view that the information must be shared with third parties in order to properly assess the merger situation, it may require the merger parties to resubmit a non-confidential version that includes such information. Failure to submit an appropriately revised non-confidential version within the stipulated timeframe may result in the Commission determining the notification by not giving a decision.

The procedure is similar for third parties seeking to submit comments to the Commission on a merger. Where third parties claim confidentiality over their submissions, the Commission will respect such confidentiality claims wherever possible, subject to overriding considerations relating to transparency and rights of defence. The Commission will liaise with the provider of the information where the Commission considers it necessary to publish or otherwise disclose confidential information. In considering whether the information should be disclosed, the Commission will consider factors such as whether disclosure would be contrary to the public interest or might significantly harm legitimate individual or business interests.

5 The End of the Process: Remedies, Appeals and Enforcement

5.1 How does the regulatory process end?

At the end of Phase 1, the Commission will determine whether to:

- issue a clearance decision and permit the merger situation to proceed;
- proceed to a Phase 2 review if it is unable to form a conclusion during Phase 1 that the merger does not raise competition concerns; or
- in exceptional circumstances, extend the Phase 1 review period (upon informing the applicants of this extension in writing in advance).

If the Commission is unable to form the conclusion during the Phase 1 review that the merger situation does not raise competition concerns under the Section 54 Prohibition, the Commission will communicate its concerns to the applicant(s) and provide the applicant(s) with the opportunity to respond to those concerns or put forward commitments prior to the Commission proceeding to a more extensive Phase 2 review. The consideration of commitments would likely extend the Phase 1 review, and the Commission will issue a clearance decision if the commitments are accepted. If the commitments are not accepted, the Commission will proceed to a Phase 2 review.

At the end of Phase 2, the Commission will determine whether to:

- issue a clearance decision and permit the merger situation to proceed;
- block the merger; or

- in exceptional circumstances, extend the Phase 2 review period (upon informing the applicants of this extension in writing in advance).

When the Commission has decided that the merger has not infringed, or will not infringe, the Section 54 Prohibition, the Commission will give notice of the decision to the merger parties. The Commission may also publish its decision on its public register. Once a clearance decision has been made, the Commission will not take further action unless the Commission has reasonable grounds for suspecting that:

- information on which it has based its decision (which may include information that resulted in the acceptance of a commitment) was materially incomplete, false or misleading;
- a party failed to adhere to one or more terms of a commitment; or
- in cases where a favourable decision was given for an anticipated merger to proceed, the merger so effected was materially different from the anticipated merger.

The Commission may revoke its clearance decision should any of the above circumstances occur.

When issuing a clearance decision in relation to an anticipated merger, the Commission may specify a validity period for the decision, during which the anticipated merger must be completed. The Commission has indicated that one year will generally be sufficient for parties to act on the decision. It will consider requests for an extension of the time on a case-by-case basis.

If, towards the end of Phase 2, the Commission reaches a preliminary view that the merger situation is likely to give rise to a substantial lessening of competition in any market in Singapore, it will issue a Provisional Statement of Decision to the applicant(s), setting out:

- the facts on which the Commission relies;
- the reasons why the Commission has reached the preliminary view that the merger is likely to give rise to a substantial lessening of competition; and
- an outline of any commitments or directions that the Commission considers may be appropriate.

The Commission will give the applicant(s) an opportunity to make written representations and/or oral representations to the Commission. Having taken into account any oral and written representations made by the applicant(s) in response to the Provisional Statement of Decision, the Commission will make a final decision on the merger. The merger parties will have the opportunity at that point to apply to the Minister for Trade and Industry for an exemption on public interest grounds.

Once the Commission has determined that it will block a merger, it will give notice of the decision to the merger parties and publish the decision on its public register. The Commission may also issue directions to remedy any negative effects arising from the merger situation. Where the Commission considers that an infringement of the Section 54 Prohibition has been committed intentionally or negligently, it may impose a financial penalty on the merger parties.

5.2 Where competition problems are identified, is it possible to negotiate "remedies" which are acceptable to the parties?

The Commission has the discretion to accept commitments that address competition concerns arising from a merger. According to the Commission's Substantive Guidelines, any commitment must be aimed at preventing or remedying the adverse effects to competition that have been identified. The Commission will only accept commitments that are sufficient to clearly address the identified adverse effects to competition and are proportionate to them.

5.3 To what extent have remedies been imposed in foreign-to-foreign mergers?

In the Commission's 2008 decision on the merger between the Thomson Corporation and Reuters Group PLC, the Commission concluded, based on the commitments that had been offered by the parties to the European Commission and the United States Department of Justice, that the notified merger would not infringe the Section 54 Prohibition in Singapore. As such, no additional remedies were imposed by the Commission. However, the Commission stressed that commitments accepted by overseas competition authorities do not, in themselves, necessarily imply that the Commission will permit the merger to proceed in Singapore.

The Commission has granted approval of foreign-to-foreign mergers after accepting commitments from the merger parties; see, for example, ADB BVBA's proposed acquisition of Safegate International AB, and the London Stock Exchange Group's proposed acquisition of Refinitiv Holdings Limited.

5.4 At what stage in the process can the negotiation of remedies be commenced? Please describe any relevant procedural steps and deadlines.

The Commission has the discretion to accept commitments at any time before making a decision pursuant to applications under Sections 57 and 58 or investigations under Section 62(1) of the Competition Act.

The Commission encourages merger parties to take the initiative to propose suitable commitments that can appropriately resolve any competition concerns that they foresee arising from the merger situation. Prior to proceeding to a Phase 2 review, the Commission may also invite the merger parties to consider offering commitments to address competition concerns that were identified by the Commission during a Phase 1 review. Furthermore, towards the end of a Phase 2 review, if the Commission is of the view that the Section 54 Prohibition is likely to be infringed, the Commission may issue a Provisional Statement of Decision outlining remedies that the Commission considers appropriate.

Where the Commission considers that the commitments proposed by merger parties are suitable and sufficient, the Commission will issue an invitation to comment on its website and may also approach third parties on an individual basis in order to seek their views on the proposed commitments. Please see question 6.3 below for a summary of the Commission's proposed amendments to its guidelines on the topic of merger commitments.

5.5 If a divestment remedy is required, does the merger authority have a standard approach to the terms and conditions to be applied to the divestment?

The Commission's *Guidelines on Directions and Remedies* set out some of the parameters that will guide the Commission's approach to the assessment of appropriate divestment remedies. The *Guidelines on Directions and Remedies* state that structural remedies such as divestment typically require the sale of one of the businesses that has led to the competition concern. Ideally, this should be a self-standing business that is capable of being fully separated from the applicant/undertaking involved. The sale should also be completed within a specified period.

A purchaser may be deemed a reasonable alternative purchaser if it is willing to pay a commercially reasonable price, even if the price is lower than the price that the acquiring party is prepared to pay. An independent trustee may be appointed, at the owner's expense, to monitor the operation of the business pending disposal and/or to handle the sale if the owner has not completed the divestiture within the specified period.

Before the sale of any business, the Commission must approve the buyer. This is to ensure that the proposed buyer has the necessary expertise, resources and incentives to operate the divested business as an effective competitor in the marketplace. If that is not the case, it is unlikely that the proposed divestiture will be considered an effective remedy to the anticompetitive effects that have been identified.

5.6 Can the parties complete the merger before the remedies have been complied with?

While there is no requirement for parties to suspend the implementation of a merger or anticipated merger prior to the implementation of remedies, in a case where the Commission issues a favourable decision on the basis of specific remedies (e.g., commitments) being fulfilled, it may revoke the favourable decision if the remedies have not been complied with prior to the completion of the merger.

5.7 How are any negotiated remedies enforced?

Remedies may be implemented either by the Commission's acceptance of commitments or by directions issued by the Commission.

If any of the commitments are breached, the Commission may revoke its clearance decision for the merger. The merger may be considered an infringement of the Competition Act, and the Commission may impose such sanctions for the infringement as it deems appropriate. Sanctions include financial penalties or directions requiring a merger to be dissolved or modified in such manner as the Commission may direct.

In the case of non-compliance with a direction, the Commission may apply to register the direction with a District Court in accordance with the Rules of Court. On registration, the direction shall have the same force and effect as if it had been an order originally obtained in the District Court and will be enforced accordingly. Any person who fails to comply with a registered direction without reasonable excuse will be in contempt of court. The typical sanctions for contempt of court will apply; i.e., the court may impose a fine or imprisonment. The court may also make orders to secure compliance with the direction, or to require any person to do anything to remedy, mitigate or eliminate any effects arising from non-compliance with the direction. The District Court may also make an award for costs upon the registration of the direction.

5.8 Will a clearance decision cover ancillary restrictions?

A clearance decision issued by the Commission with respect to a notified merger will cover ancillary restrictions.

The Commission's Substantive Guidelines define ancillary restrictions as agreements, arrangements or provisions that are directly related and necessary to the implementation of a merger. Restrictions that fall within this definition will benefit from an exemption in the Third Schedule to the Competition Act, which excludes such ancillary restrictions from the prohibition against anticompetitive agreements ("**Section 34 Prohibition**") and the prohibition against abuse of dominance ("**Section 47 Prohibition**").

In order to be directly related, the restriction must be economically connected with the merger, intended to allow a smooth transition to the changed structure after the merger, but ancillary or subordinate to its main object. In addition, in determining the necessity of the restriction, the Commission will take into account the proportionality of factors such as the duration, subject matter and geographical field of application of the ancillary restriction to the overall requirements of the merger. A restriction is likely to be necessary if, for example, in the absence of the restriction, the merger would not proceed or would incur substantially higher costs, over an appreciably longer period, or could only be implemented with considerably greater difficulty.

Merger parties should conduct a self-assessment as to whether any agreements, arrangements or provisions that are concluded in conjunction with the merger qualify as ancillary restrictions. For merger parties seeking greater legal certainty, the Competition Act allows for ancillary restrictions to be notified to the Commission in two ways:

- merger parties may notify the ancillary restrictions as part of the merger notification and provide the necessary information in the relevant forms. The Commission will consider these ancillary restrictions in its review of the merger situation; or
- in the event that the merger parties do not make a notification in respect of the merger situation itself, they can choose to file a separate notification for guidance (under Sections 43 or 50 of the Competition Act) or a notification for a decision (under Sections 44 or 51 of the Competition Act) as to whether the agreement, arrangement or provision concerned constitutes an ancillary restriction. In filing such notifications, merger parties should provide the following details of each ancillary restriction: (i) an explanation as to why each ancillary restriction may infringe the Section 34 Prohibition, the Section 47 Prohibition, or both (if not for the exclusion of ancillary restrictions from these prohibitions); and (ii) an explanation as to why each ancillary restriction is directly related and necessary to the implementation of the merger situation.

Parties should note that guidance or a decision given by the Commission in respect of an ancillary restriction does not prevent the Commission from taking further action regarding the ancillary restriction if the Commission finds that the underlying merger has infringed the Section 54 Prohibition, or if the underlying anticipated merger is not subsequently effected.

5.9 Can a decision on merger clearance be appealed?

A full appeal on the merits can be made to the Competition Appeal Board ("**CAB**") against any decision by the Commission in respect of a merger or any direction (including interim measures) imposed by the Commission. The CAB can confirm, impose, revoke or vary a direction, or make any other direction or decision, provided it is a decision or direction that the Commission itself could have given. There is no right to appeal to the CAB against the Commission's refusal to accept any commitments offered; however, appeals may be made against the Commission's refusal to vary, substitute or release existing commitments.

Any merger party may appeal against the Commission's decision in respect of a merger or anticipated merger, while the person to whom the Commission gave a direction may appeal against the direction. Parties may make further appeals against the decisions of the CAB to the General Division of the High Court and thereafter to the Court of Appeal, but only on points of law and the quantum of the financial penalty. Such an appeal can only be made by a party to the proceedings in which the decision of the CAB was made.

Parties wishing to appeal to the CAB must lodge a notice of appeal within four weeks of the date on which the appellant was notified of the contested decision or the date of publication of the decision, whichever is earlier. The CAB may, at its discretion, extend the time limit provided for the lodgement of the notice of appeal.

As soon as is practicable, the CAB shall:

- set a timetable outlining the steps to be taken by the parties in preparation for the oral hearing of the appeal, whether pursuant to the directions of the CAB or otherwise;
- fix the date for the oral hearing;
- notify the parties in writing of the date and place for the oral hearing and of any timetable for that hearing; and
- if it considers it necessary for the expeditious disposal of the appeal, send the parties a report that contains a summary of the factual context of the case and the parties' principal submissions.

On 20 October 2018, Uber filed a notice of appeal to the CAB against the Commission's decision. This is the first-ever appeal in respect of a decision issued by the Commission on mergers. On 29 December 2020, the CAB dismissed Uber's appeal against the Commission's infringement decision.

5.10 What is the time limit for any appeal?

The time limit for a merger party to appeal to the CAB on a decision by the Commission is four weeks from the date on which the appellant was notified of the contested decision or the date of publication of the decision, whichever is earlier.

5.11 Is there a time limit for enforcement of merger control legislation?

There is no statutory time limit under the Competition Act for enforcement against anticompetitive mergers.

6 Miscellaneous

6.1 To what extent does the merger authority in your jurisdiction liaise with those in other jurisdictions?

The Competition Act contains provisions that permit the Commission to enter into cooperation arrangements with any foreign competition body, with the approval of the Minister for Trade and Industry. Cooperation may take the form of information exchange or any other assistance as is necessary to assist in the enforcement or administration of competition laws.

To date, the Commission has entered into cooperation agreements with the following foreign competition authorities:

- the Japan Fair Trade Commission;
- Indonesia's KPPU, known as the Indonesia Competition Commission in English;
- the Competition Bureau Canada;
- the Philippine Competition Commission; and
- the State Administration for Market Regulation of The People's Republic of China.

The Commission may also rely on cooperation provisions in the competition sections of Free Trade Agreements ("**FTAs**") to liaise with authorities in other jurisdictions. However, the FTA provisions generally limit the Commission's ability to share confidential information with its international counterparts without first obtaining the consent of the party that provided the confidential information.

The Commission is also a member of the International Competition Network ("**ICN**"), and the Association of Southeast Asian Nations ("**ASEAN**") Experts Group on Competition ("**AEGC**"), where regular exchanges of best practices and practical experience take place. The Commission is also a founding member of ICN and AEGC initiatives that have the objective of facilitating cross-border cooperation, including the ICN Framework on Competition Agency Procedures (joined on 16 May 2019) and the AEGC's ASEAN Competition Enforcers' Network (established on 10 October 2018).

Where relevant, the Commission may discuss its review of certain mergers with its international counterparts. The extent of such international cooperation will differ on a case-by-case basis.

6.2 What is the recent enforcement record of the merger control regime in your jurisdiction?

The Section 54 Prohibition became effective on 1 July 2007. As at 2 August 2022, the Commission has received 97 notifications and initiated one investigation into a merger that was carried into effect (namely, *Grab-Uber*).

Of the 97 notifications received, five have been cleared on condition of the implementation of and compliance with commitments.

In respect of the *Grab-Uber* transaction, the Commission on 24 September 2018 issued its infringement decision finding the transaction to have infringed the Section 54 Prohibition by substantially lessening competition in the ride-hailing platform market in Singapore. To this end, the Commission issued directions to the respective parties aimed at "lessen[ing] the impact of the Transaction on drivers and riders, and to open up the market and level the playing field for new players" and levied a total financial penalty of S$13,001,702 against the parties.

On 29 December 2020, the CAB dismissed Uber's appeal against the infringement decision and upheld its financial penalties and directions.

6.3 Are there any proposals for reform of the merger control regime in your jurisdiction?

There are currently no public proposals to reform the Competition Act. The Commission's latest revised guidelines went into effect on 1 February 2022. The revised guidelines considered amendments made to the Competition Act in 2018 and recommendations from the Commission's *E-commerce Platforms Market Study* (published on 10 September 2020), the Commission's experience in applying the Competition Act, and international best practices. Of relevance to merger control are the revisions to the Substantive Guidelines, Procedural Guidelines and the renamed *Guidelines on Directions and Remedies*.

6.4 Please identify the date as at which your answers are up to date.

The answers provided are up to date as at 2 August 2022.

7 Is Merger Control Fit for Digital Services & Products?

7.1 Is there or has there been debate in your jurisdiction on the suitability of current merger control tools to address digital mergers?

Yes. The Commission has undertaken various initiatives over the past few years in order to gain key insights into the development and characteristics of digital markets, which have also informed the Commission about the challenges that competition authorities may face, including in the areas of enforcement of competition law. The Commission's initiatives include (among others):

- publishing a *Handbook on E-Commerce and Competition in ASEAN*;
- engaging KPMG to undertake a study on *Understanding the Data and Analytics Landscape in Singapore*;
- publishing a joint research paper with the Personal Data Protection Commission and the Intellectual Property Office of Singapore titled *Data: Engine for Growth – Implications for Competition Law, Personal Data Protection, and Intellectual Property Rights*;
- conducting a market study on the *Online Travel Booking Sector in Singapore*; and
- conducting the *E-Commerce Platforms Market Study*.

The Commission has publicly noted that the current suite of enforcement tools has been sufficient to deal with competition issues arising from digital platform cases thus far (please see question 7.3 below for more details on digital platform cases). Nonetheless, the digital sector, including e-commerce, has been identified as one of the Commission's focus areas for the foreseeable future, and the Commission is continuing its efforts to deepen its understanding of technological and market developments, and review whether the assessment toolkit remains relevant and sufficient to assess the new business models that may be found in the digital sector.

7.2 Have there been any changes to law, process or guidance in relation to digital mergers (or are any such changes being proposed or considered)?

As discussed in question 6.3, the Commission has issued revised guidelines that considered the recommendations from the *E-commerce Platforms Market Study* (published on 10 September 2020).

For example, in response to the potential for digital platforms to acquire businesses operating in adjacent or related markets that could lead to a substantial lessening of competition, the Substantive Guidelines now state that in relation to conglomerate mergers, competition concerns could arise in mergers between parties in closely related markets. For example, mergers in closely related markets may involve sellers of complementary products, or sellers of (distinct or related) products that belong to a range of products that is generally purchased or likely to be purchased together by the same set of buyers for the same end use.

Other additions to the Substantive Guidelines also reflect the Commission's focus on digital platforms. The guidelines now state that if one or more of the merging parties is a multi-sided platform, market shares may be measured by a variety of tools, such as the number of monthly active users (including buyers and sellers on each side of the platform), the number of transactions, and the gross value of the product or service. The guidelines now also state that data protection can be considered an aspect of competition on *quality* in the assessment of whether the merger has resulted in a substantial lessening of competition. Third, the Commission proposes to clarify that difficulties in accessing data can be considered a barrier to entry and expansion. Lastly, the Commission noted that mergers involving innovative and fast-growing new entrants may alter the competitive dynamics of the market, even if they do not have a large market share.

7.3 Have there been any cases that have highlighted the difficulties of dealing with digital mergers, and how have these been handled?

There have been cases in which the Commission has dealt with mergers that involve digital platforms; see, for example, the acquisition of JobStreet Singapore by SEEK Asia Investments Pte. Ltd. ("***SEEK-JobStreet***"), and the *Grab-Uber* merger. Whilst the Commission does not appear to have encountered specific difficulties arising from the digital nature of the mergers *per se*, there are some notable features in its treatment of the cases as follows:

- The *SEEK-JobStreet* merger, which involved the merger of the online recruitment platforms (and correspondingly, their databases of jobseekers) operated by jobsDB Singapore and JobStreet Singapore, was the first merger in Singapore that received conditional clearance after a set of behavioural and structural (i.e., divestiture) commitments were evaluated and accepted by the Commission.
- The *Grab-Uber* merger required the Commission to utilise a number of its enforcement tools for the very first time, such as:
  - issuing interim measures directions to preserve and restore the state of competition to the pre-transaction state, in order to prevent any actions that may prejudice the Commission's investigations or its ability to subsequently issue directions or remedies; and
  - imposing the first-ever financial penalty in respect of a merger on the parties, for completing an irreversible merger that harmed competition.

As stated above, Uber filed a notice of appeal to the CAB against the Commission's decision in the *Grab-Uber* merger. This was the first-ever appeal in respect of digital mergers. On 29 December 2020, the CAB dismissed Uber's appeal against the Commission's infringement decision and upheld the Commission's financial penalties and directions.

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Chong Kin has experience in advising the sectoral competition regulators on liberalisation matters since 1999, including drafting, implementing and enforcing the competition law framework for the telecom, media and postal sectors, before moving onto the general Competition Act.
He continues to advise both regulators and industry on competition matters under various sectoral competition codes and is widely acknowledged by peers, clients and rivals as a leading competition lawyer in Singapore.
Chambers Asia-Pacific 2022 lists Chong Kin as a Band 1 Competition/Antitrust lawyer for nine consecutive years while noting: "*His advice is both thorough and attuned to the regulator's intentions, which is really helpful.*" Chong Kin is lauded by clients as an "*innovative competition lawyer who is savvy and practical*", and he "*understands business needs and is very responsive*".

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Corinne has also assisted multinational and local companies in setting up competition law compliance and audit structures, dawn raid and whistle-blowing programmes and conducting audit checks for companies in a wide range of industries in Singapore and other jurisdictions in the ASEAN region.
Corinne has also assisted in the drafting of sectoral competition codes and guidelines and has advised regulators and industry on sectoral competition codes in the telecommunications, media, energy, aviation, transport and financial services sectors.
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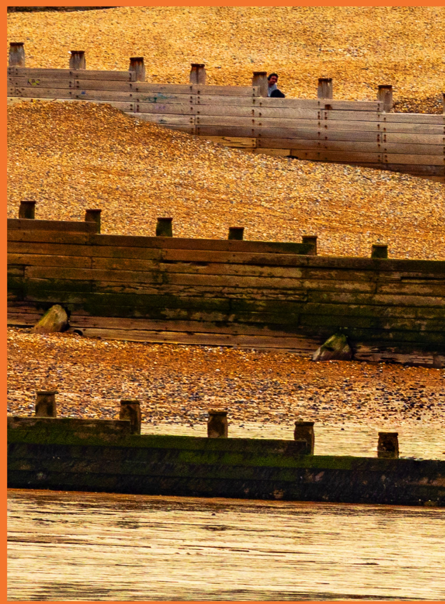

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