

Competition Law Alert

Dear Clients & Friends

CCS issues its third infringement decision under section 34 of the Competition Act: 14 electrical and building works companies fined

On 4 June 2010, the Competition Commission of Singapore (the “**CCS**”) issued an Infringement Decision (the “**ID**”) against 14 electrical and building works companies for infringing section 34 of the Competition Act (the “**Section 34 Prohibition**”), which prohibits bid rigging or collusive tendering.

The CCS found that the 14 companies had colluded to submit bids for 10 electrical or building works projects for nine properties. Typically, one of the parties (“**requester**”) would request one or more other cartel members (“**supporter**”) to assist in providing a cover bid to increase the requester’s chances of winning the bid for providing electrical or building works for a particular project. The requester would also prepare the quotation for the supporter. From time to time, the requestor would inform the supporter of his quotation price so that the supporter would quote higher.

Financial penalties and immunity

The total amount of financial penalties levied on the 14 companies is in the region of S\$187,000 with one of them being fined an amount exceeding S\$44,000.

One of the companies was granted total immunity from financial penalties, having met all the conditions of the CCS leniency programme. This company had provided relevant information to the CCS before investigations even commenced. The CCS leniency programme is aimed at encouraging cartel members to come forward to assist the CCS in uncovering cartels.

Daren Shiau, Head of Competition & Antitrust, notes that the decision represents a heightened approach by the CCS towards information-sharing as a form of potential cartel behaviour. He highlights, in particular, the CCS’ reliance on a European decision, *Cimenteries v Commission* Case T-25/95 [2000] ECR II-491, wherein the court stated:

“In order to prove that there has been a concerted practice, it is not therefore necessary to show that the competitor in question has formally undertaken, in respect of one or several others, to adopt a particular course of conduct or that the competitors have colluded over their future conduct on the market. ... It is sufficient that, by its statement of intention, the competitor should have eliminated, or at the very least, substantially reduced uncertainty as to the conduct on the market to be expected on his part.”

CCS issued Proposed Infringement Decision

As a matter of background, the CCS issued a Proposed Infringement Decision (the “**PID**”) against this same group of companies on 11 March 2010. The companies were then given six weeks from the date of receipt of the PID to make representations or argue the case set out by the CCS. Only seven of the

companies made representations, asking for a waiver or reduction of penalties, or alternatively, to pay their penalties by instalments. The CCS considered each representation made and decided that any further reduction of the respective penalties would not be appropriate in the circumstances. The CCS also did not allow payment of the penalties by instalments.

Reference materials

The following reference materials are available on the CCS website www.ccs.gov.sg:

- [Media release dated 4 June 2010](#)
- [Notice of Infringement Decision issued by CCS dated 4 June 2010](#)

Further information

Should you have any queries as to how this development may affect your business, please do not hesitate to get in touch with the following:

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The Allen & Gledhill Competition & Antitrust practice is one of the largest and most experienced competition teams in Singapore. It is a full-time dedicated competition practice and consists of competition lawyers, the country's first in-house competition economics team and former officers of the Competition Commission of Singapore (the "CCS"). The practice is placed in "Tier 1" by *Global*

Competition Review and highly recommended by *PLC Which Lawyer?*, *Chambers Global* and *Chambers Asia 2010* have identified it as “a market-leading competition team, which has led the way on merger filing clearance since the establishment of the CCS’ merger control regime”. The practice has to-date acted in approximately three-quarters (15 out of 21) of all merger control notifications lodged with the CCS. Further, it was commissioned to establish the merger regimes under both Singapore’s Airport Competition Code as well as the country’s Media Market Competition Code. The practice has also defended clients in several landmark antitrust hearings.

Yours faithfully

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