

IN THE ACT

MAKING MARKETS WORK WELL

ISSUE 7 | JUNE 2020 - SEPTEMBER 2020

THE PRICE IS RIGHT

CCCS ISSUES
GUIDELINES ON PRICE
TRANSPARENCY FOR
SUPPLIERS

GUIDING COLLABORATIONS

The Covid-19 Guidance
Note provides clarity on
business collaborations

CCCS MARKET STUDY ON E-COMMERCE PLATFORM

Understand emerging digital
trends





CE's NOTE

SIA AIK KOR
CHIEF EXECUTIVE
COMPETITION AND CONSUMER COMMISSION OF SINGAPORE

In September, CCCS published our first set of Consumer Protection Guidelines on price transparency. Transparent and accurate prices are necessary to allow consumers to make informed choices, and are necessary for a well-functioning market. The Guidelines on Price Transparency, which will come into effect on 1 November 2020, provide greater clarity to all suppliers on certain pricing practices which potentially infringe the Consumer Protection (Fair Trading) Act.

Earlier in July, CCCS issued a COVID-19 Guidance Note which seeks to provide clarity on collaborations between competitors in relation to the supply of essential goods and services, given the exceptional nature of the pandemic and the disruptions to logistics and supply chains.

On the enforcement front, CCCS issued an Infringement Decision against three contractors for bid-rigging of quotations called by Wildlife Reserves Singapore (WRS). Investigations revealed that they had exchanged bid information and coordinated their bids for civil and electrical works for WRS's attractions. Their conduct distorted competition and prevented WRS from obtaining the best prices through independent competitive bids.

In addition, CCCS concluded an investigation into the online food delivery and virtual kitchen sectors. Following the commencement of investigations, the conduct which involved the refusal to supply online

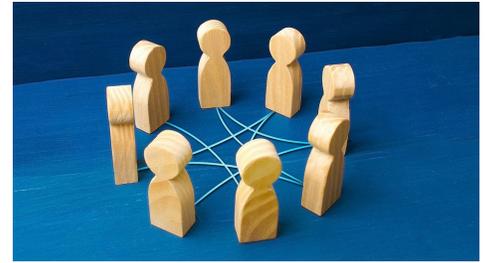
food delivery services to F&B operators using a competitor's virtual kitchens ceased. CCCS noted that competition in the sector remains dynamic with players entering and competing for market share, and will continue to monitor practices in the market.

To better understand developments in the digital economy, CCCS embarked on a market study on e-commerce platforms that compete across multiple market segments and issued our findings in September. While the study found that our existing assessment toolkit is sufficiently robust to address competition issues that may arise from the proliferation of such platforms, it identified areas where further guidance by CCCS could be useful to assist businesses in the application of the Competition Act. We have taken into account the recommendations from the study, our experiences in applying the Act as well as the 2018 competition amendments, to review the CCCS Guidelines. The proposed changes to the CCCS Guidelines are currently under public consultation.

Lastly, we affirm our commitment to regional cooperation with our support for the ASEAN Experts Group on Competition's call on all business sectors to continue to comply with competition law despite the economic challenges caused by the pandemic.

I hope you enjoy this issue of In The Act, and stay safe as part of the collective effort to fight COVID-19.

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ABOUT CCCS

The Competition and Consumer Commission of Singapore ("CCCS") is a statutory board of the Ministry of Trade and Industry. CCCS administers and enforces the Competition Act (Cap. 50B) which empowers CCCS to investigate and adjudicate anti-competitive activities, issue directions to stop and/or prevent anti-competitive activities and impose financial penalties. CCCS is also the administering agency of the Consumer Protection (Fair Trading) Act (Cap. 52A) or CPFTA which protects consumers against unfair trade practices in Singapore. Our mission is to make markets work well to create opportunities and choices for business and consumers in Singapore.

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THE PRICE IS RIGHT

Price Transparency Guidelines give suppliers greater clarity on pricing practices

On 7 September 2020, CCCS published its Guidelines on Price Transparency (“Guidelines”). The Guidelines set out how CCCS will interpret and give effect to the Consumer Protection (Fair Trading) Act (“CPFTA”) in relation to the display/ advertisement of prices and other pricing practices such as time-limited discounts, free offers and price comparisons. The Guidelines were finalised after considering the responses garnered from a public consultation exercise.

The Guidelines examine common pricing practices that may mislead consumers and infringe the CPFTA. These include – **drip pricing, price comparison, discounts, and use of the term “free”**. The infographics in the next page will provide a better understanding of these pricing practices.

The Guidelines also include actions that suppliers should take to ensure that prices and their accompanying terms and conditions are accurate and communicated clearly. It also sets out the good practices that suppliers are encouraged to adopt to

help minimise potential disputes with consumers.

The Guidelines will come into effect on 1 November 2020 and will apply to all suppliers, whether operating online or in physical stores.

To promote greater awareness and understanding of the Guidelines, CCCS is also working with Trade Associations and Chambers (TACs) to educate suppliers across various industries. As part of this, CCCS will also hold virtual webinars in October with members of the Singapore Chinese Chamber of Commerce & Industry (SCCCI) and the Singapore Business Federation (SBF), and has launched an online and social media marketing campaign, including on the SBF and the Association of Small & Medium Enterprises (ASME) platforms in the fourth quarter of 2020.

Scan to read
more about the
guidelines



Suppliers/retailers can enable consumers to make informed choices by adopting good practices in the following four areas:

a) Drip Pricing

Displaying a headline price that omits mandatory charges and pre-ticked optional add-ons when the final price is higher

- ✓ Dos**
- 1 Include mandatory charges in the headline price. If these charges cannot be calculated in advance, disclose the existence of such charges together with the headline price.
 - 2 Require consumers to select the options they want (e.g. adopt "opt-in" approach for add-ons)
 - 3 If pre-ticked boxes are used in respect of optional add-ons,
 - make the boxes prominent
 - disclose the price of such items and include the price in the headline price
 - disclose the material terms and conditions
 - 4 Clearly display hyperlinks to terms and conditions where it is not possible to disclose such terms and conditions upfront due to space constraints
 - 5 Provide a final itemised price listing which clearly reflects all mandatory and optional charges to consumers before they make payment

Examples of Potential Infringements

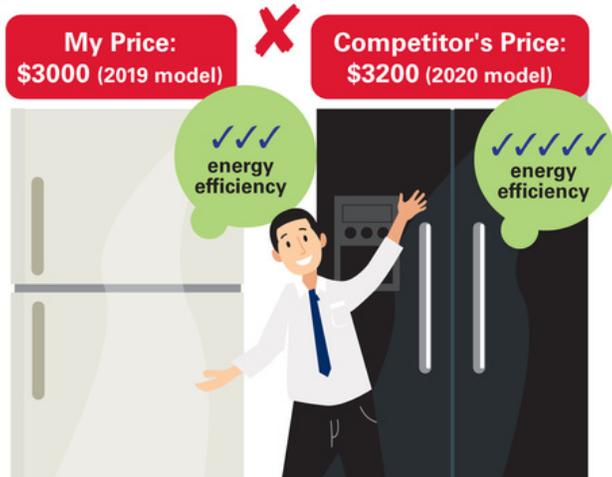
- Excluding mandatory charges or pre-ticked add-ons in the advertised price, resulting in a higher final price eventually
- Omitting key terms and conditions, making them difficult to find or hiding them in fine print



- ✓ Dos**
- 1 Ensure goods or services used for price comparisons are accepted to be similar or equivalent by consumers or trade norms
 - 2 Record reference prices to prove that price comparisons are not false or misleading
 - 3 Periodically check reference prices and amend price comparisons accordingly

Examples of Potential Infringements

- Stating that a competitor's price is higher when it is not the case
- Making price comparisons that are no longer valid or current
- Comparing prices of an older model with a competitor's newer model with better specifications



b) Price Comparison

Comparing prices with competitors to reflect a competitive price or a price advantage

c) Discounts

A supplier offers a price discount for its good/service

✓ Dos

- 1 Use genuine previous prices when making comparisons
- 2 Record evidence of past sales and prices
- 3 Time period of discounts should not be false or misleading. State time period of discounts clearly and prominently.

✓ Discounted price
\$50
(Usual price: \$80)
Promotion valid from
1 Jan 2020 - 31 Jan 2020



Examples of Potential Infringements

- Advertising a product as discounted from a price that was never offered or was offered for an insignificant period of time prior to the discount
- Bundling two products and pricing them at \$6 during a “buy-one-get-one-free” promotion when the two products are available separately at \$3 each
- Advertising goods or services at a discount for a “limited period” to mislead consumers into believing that there is a price benefit and scarcity in the availability of the promotional prices but in actual fact, the discounts are available for an extended duration
- Advertising the sale of a good or service at a discounted price but in actual fact, no items are available at that price

d) Use of the Term "Free"

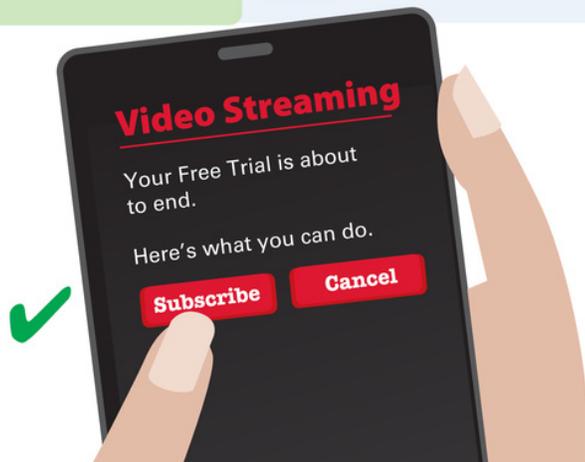
Suppliers offer consumers “free” products/services, typically to entice them to try the product/ service and eventually buy it

✓ Dos

- 1 Specify any incidental costs (e.g. shipping fees), qualifiers, subsequent charges and key terms and conditions clearly and prominently together with the “free” representation
- 2 Inform consumers before the end of free trial and provide clear information on the cancellation process

Examples of Potential Infringements

- Making consumers pay for the cost of a good/service which was represented as “free”
- Increasing the price or reducing the quantity, quality or composition of a product or service to recover the cost of a free gift/trial
- Representing a product or service as free when it is part of the package price
- Representing a product or service to be free when the supplier has no intention of providing the product or service



“

These Guidelines aim to give suppliers greater clarity on how to comply with the CPFTA. Suppliers should ensure that their prices are represented accurately and communicated clearly and prominently so that consumers can make informed choices and shop confidently. Suppliers also stand to gain as fair trading practices can go a long way in building a solid reputation as a trusted trader. In short, the Guidelines help to build a credible marketplace.”

- CCCS Chief Executive, Sia Aik Kor

”

“
Build your reputation
as a trustworthy supplier by adopting transparent pricing and good trade practices.”

”



SPOTLIGHT



GUIDING COLLABORATIONS

The Covid-19 Guidance Note provides clarity on business collaborations

On 20 July 2020, CCCS issued a guidance note to provide businesses with more clarity on collaborations between competitors in relation to the supply of essential goods or services in Singapore (the “COVID-19 Guidance Note”) without running afoul with the competition law.

The disruption of COVID-19 pandemic may require companies to form quick partnerships and temporarily collaborate to sustain or improve the supply of essential goods or services. Under normal circumstances, such collaborations may require further assessment for net economic benefits.

Under this COVID-19 Guidance Note, CCCS will assume that collaborations that sustain or improve the supply of essential goods or services in Singapore, which are limited in scope and time and which do not involve price-fixing, bid-rigging,

market sharing or output limitation, are likely to generate net economic benefits and therefore, will not be investigated for infringement of the Competition Act.

The Covid-19 Guidance Note applies to collaborations put in place from 1 February 2020, to 31 July 2021. Businesses are cautioned against taking advantage of the COVID-19 pandemic as a cover to engage in anti-competitive activities that do not generate net economic benefit. CCCS retains the discretion to commence investigations in such cases.

Scan to
read more
about the
guidance
note



COVID-19 BUSINESS COLLABORATION GUIDANCE NOTE



WHY ISSUE THIS GUIDANCE NOTE?

Due to the economic impact of COVID-19, competing businesses may find it necessary to work together to respond to disruptions in supply of essential goods or services.

WHAT IS ALLOWED?

CCCS will exceptionally assume that collaborations that fulfill the following are likely to generate net economic benefits and thus, are unlikely to infringe the Competition Act:

Sustain or improve the supply of essential goods or services in Singapore

Are limited in scope and time

Do not involve price-fixing, bid-rigging, market sharing or output limitation



FOR HOW LONG?

The Guidance Note applies to collaborations put in place from 1 February 2020, and which will expire by 31 July 2021.

WHAT IS PROHIBITED?

Collaborations that involve price-fixing, bid-rigging, market sharing or output limitation will continue to be prohibited unless they satisfy the net economic benefit criteria under the Third Schedule to the Competition Act.

For more information on the criteria, click on this link:

<https://go.gov.sg/2say83>



For more details, refer to the Guidance Note at:
<https://www.cccs.gov.sg/legislation/competition-act>



BUSTING BID RIGGING

CCCS penalises contractors for bid rigging of quotations

On 4 June 2020, CCCS issued an Infringement Decision (ID) against three contractors for infringing section 34 of the Competition Act. The contractors were found to have participated in anti-competitive agreements to rig the bids for the provision of building, construction and maintenance services under Invitations To Quote and Invitations To Tender called by Wildlife Reserves Singapore (“WRS”).

The three contractors are Shin Yong Construction Pte. Ltd., Geoscapes Pte. Ltd., and Hong Power Engineering Pte. Ltd.

CCCS’s investigation revealed that the contractors had exchanged bid information and coordinated their bids for eight tenders and quotations called by WRS from 1 July 2015 to 6 October 2016. Their conduct distorted competition as they agreed on their bid prices

and prevented WRS from obtaining the best offers through independent competitive bids.

Shortly after CCCS conducted unannounced inspections at their places of business, all three contractors applied for leniency under CCCS’s leniency programme. Separately, following CCCS’s inspections in October 2016, WRS barred them from bidding for any of WRS’s projects.

Financial penalties totalling of S\$32,098 were imposed on the three contractors.

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read more
about the
case



WHAT IS BID RIGGING?

Two or more suppliers/purchasers collude on bid submission for tenders. They may take turns to win a tender by agreeing on terms in a bid submission, or not participate in certain tenders after agreeing on who should win the tender.

Impact? Suppliers do not genuinely compete, resulting in customers not getting the best offers which a competitive process should provide.



WATCH OUT FOR SIGNS OF POSSIBLE BID RIGGING:



SIMILARITIES IN BIDS

- Same text errors in bid documents
- Same text when one would expect the text to be different
- Different bid submissions created by the same author
- Bids submitted from same IP address
- Insufficient details submitted for tender evaluation



ODD PRICE DIFFERENCES

- Unexplained bid price increase as compared to past similar tenders
- Large price differences between winning and losing bids



'FISHY' BUSINESS BEHAVIOUR

- Suppliers submit their respective bids immediately after one another before the submission deadline
- Successful bidder subcontracts to losing suppliers that submitted higher bids
- Bidders suggest they know competing bidders' prices or identities



FOR TENDER DESIGN

- Research the industry, including suppliers, goods & services, prices and trends
- Avoid unnecessary tender restrictions, so as to allow more suppliers to participate
- Define requirements clearly, specify desired outcomes
- Require bidders to declare any relationships with entities that may be competing bidders, and that bids submitted were determined independently
- Include a warning to bidders about the penalties for bid rigging



FOR FOOD'S SAKE

CCCS ceased investigation into the online food delivery and virtual kitchen sectors

An investigation into the online food delivery and virtual kitchen sectors in Singapore was launched on 30 September 2019 regarding online food delivery operators' refusal to supply food delivery services to competing virtual kitchens.

Virtual kitchens are commercial kitchen spaces provided to F&B operators for food preparation, predominantly for online food delivery services. One such operator is Smart City Kitchens (SCK). In recent years, Deliveroo, Foodpanda and GrabFood have started to provide virtual kitchens as an additional service to the F&B operators, who are able to access their respective online food delivery services.

SCK does not operate any online food delivery service and would need to rely on the main online food delivery service providers to fulfill

deliveries for the F&B operators that operate from its virtual kitchens.

Following CCCS's investigation, GrabFood and Deliveroo have started providing delivery services to F&B operators in SCK's virtual kitchens besides Foodpanda. As a result, there is greater competition in the virtual kitchen sector, and consumers are also able to enjoy a greater choice of food ordered online.

CCCS has ceased its investigation, but it will continue to monitor market practices and take necessary enforcement actions against any anti-competitive conduct in these sectors.

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read more
about the
case



SPOTLIGHT



GLOBAL RAIL PLAYERS MERGE

CCCS clears Alstom S.A.'s proposed acquisition of Bombardier Transportation

CCCS has cleared the proposed acquisition of Bombardier Transportation (Investment) UK Ltd ("Bombardier Transportation") by Alstom S.A. ("Alstom").

Alstom and Bombardier Transportation are global players in the rail transport industry. In Singapore, Alstom supplies trains and urban signalling systems for MRT lines, turnkey solutions for rail transport, MRT system infrastructure and maintenance services; while Bombardier Transportation supplies trains for MRT and LRT lines, turnkey solutions for rail transport; urban signalling systems; services for communication systems, and maintenance services.

In its assessment, CCCS found that in the relevant markets for supply of trains and urban signalling systems for MRT lines in Singapore, it is likely that there continues to be sufficient competition post-merger and that the parties are unlikely to be each other's closest competitor. Existing and potential suppliers as well as LTA as the sole customer can also constrain the merged entity's ability to raise prices. In addition, CCCS found that in the relevant market for the supply of urban signalling systems for MRT lines in Singapore, Bombardier Transportation has no market share.

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read more
about the
case



SPOTLIGHT



MERGER TO SET SAIL

CCCS clears proposed merger of Korean Shipbuilders

CCCS has cleared the proposed merger between Korea Shipbuilding & Marine Engineering Co., Ltd (“KSOE”) and Daewoo Shipbuilding & Marine Engineering Co., Ltd. (“DSME”).

KSOE and DSME are Korean companies primarily active in shipbuilding and operate in Singapore as a foreign company registered in Singapore. They overlap in the global supply of commercial vessels, including oil tankers, containerships, LNG carriers and LPG carriers, which CCCS considered to be the relevant markets for assessment.

CCCS proceeded with an in-depth review on 23 January 2020, as it was unable to conclude that the proposed merger will not result in a substantial lessening of competition in a preliminary review.

In its in-depth review, CCCS found that, among others, that barriers to entry and expansion are generally high particularly for new suppliers and that KSOE and DSME are close competitors to each other in the relevant markets. However, there are viable alternative suppliers which can meet demand that switches away from the merged entity in the event of a price increase by the merged entity, as well as close competitors that constrain the Parties’ bid prices.

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read more
about the
case



AEGC RESPONDS TO COVID-19 PANDEMIC

The ASEAN Experts Group on Competition (AEGC) recognised the significant negative impact of the COVID-19 pandemic on most sectors of ASEAN and the global economy.

Notwithstanding the challenges arising from the pandemic, competition law continues to play a fundamental role in the economy. The AEGC called on all business sectors to continue to comply with competition law despite the current economic downturn.

Read the [full statement in PDF here](#).



GLOBAL COMPETITION REVIEW (GCR) LIVE ASIA PACIFIC LAW LEADERS FORUM

The GCR Live Asia Pacific Law Leaders Forum was held virtually from 3-4 September 2020. The forum brought together regulators, in-house counsels and senior practitioners from across the region to discuss topics such as the interplay of competition, consumer protection and data protection laws, merger regulation and the consideration of socio-economic factors, and latest developments in the region. Ms Sia Aik Kor (CCCS Chief Executive) spoke in the ASEAN enforcers' roundtable on the latest developments of CCCS.

OECD SPECIAL MEETING OF HIGH LEVEL REPRESENTATIVES OF ASIA-PACIFIC COMPETITION AUTHORITIES

The OECD Special Meeting of High Level Representatives of Asia Pacific Competition Authorities was held virtually on 15 July 2020. The theme of the meeting was "Competition in Times of Covid-19" and senior competition representatives were invited to share on agencies' responses to discuss the strategies put in place by competition authorities during the ongoing Covid-19 crisis. CCCS Chief Executive shared CCCS's experience on the agency's responses to the crisis.

ICN ANNUAL CONFERENCE 2020

Jointly organised by the USFTC, USDOJ and the ICN Working Group Co-Chairs, the virtual ICN Annual Conference 2020 was held from 14-17 September 2020. The event gathered representatives from competition agencies and non-governmental advisors, with the opening day attracting over 2500 participants online. CCCS Chief Executive spoke in the Advocacy Working Group plenary session on "Competition Advocacy in the Digital Age" on how the agency's working relationship with other government agencies have evolved with the emergence of digital markets. Ms Ng Ee Kia (CCCS, Assistant Chief Executive, Policy & Economics) also spoke in the Chief Economist Session, providing a Singapore perspective on the opportunities and challenges for economic analyses of the digital sector.

SHOWCASE

MARKET STUDY ON E-COMMERCE PLATFORM FINDS CURRENT FRAMEWORK REMAINS ROBUST



In its **market study** on e-commerce platforms published on 10 September 2020, CCCS noted that the existing competition framework is sufficiently robust to address major competition issues that may arise from the proliferation of e-commerce platforms that compete in multiple market segments in Singapore. Other findings include:

- Consumers check multiple platforms for better offers and consider both price and non-price factors in deciding which platform to use.
- E-payment services by e-commerce platforms are unlikely to be a pre-requisite for a platform's success in Singapore.
- The lack of data is currently not a critical barrier to entry for e-commerce platforms.
- Data protection is not a key parameter of competition amongst e-commerce platforms currently.

However, the market study highlighted areas where further clarity and guidance by CCCS could be beneficial to help businesses in the application of the Competition Act. These areas include clarifying the market definition for multi-sided platforms, as well as the assessment of market power, abuse of dominance and mergers and acquisitions.

CCCS also noted some e-commerce platforms have put in place targeted measures to protect consumers against unfair practices. However, based on a survey, consumers have encountered unfair practices on e-commerce platforms, the most common being false claims of limited-time discounts, misrepresentations regarding limited quantities and false claims of discounts or benefits.

E-commerce platforms should continue to enhance their measures to protect consumers by raising sellers' awareness and understanding of the Consumer Protection (Fair Trading) Act and encouraging sellers to adopt good trade practices.

Scan to read
more market
study



SHOWCASE

CCCS CONSULTS ON PROPOSED CHANGES TO COMPETITION GUIDELINES



From 10 September to 8 October 2020, CCCS is seeking public feedback on the proposed changes to six guidelines that aim to provide clarity and guidance to businesses and competition practitioners on the analytical and procedural frameworks used by CCCS in applying the Competition Act. The proposed changes cover the guidelines on intellectual property rights, market definition, abuse of dominance, mergers and enforcement.

In its review, CCCS took into account the changes made to the Act in 2018, the findings and recommendations from the E-commerce Platforms Market Study, as well as its experience in applying the Act since the Guidelines were last revised in December 2016. The proposed changes also considered feedback given by stakeholders, changes to the broader legal landscape within Singapore and international best practices.

Scan to read
more proposed
changes to the
competition
guidelines



BLUEPRINT

GOOD PRACTICES FOR SELLERS

Sell responsibly. Build up and maintain a solid reputation as a trusted seller.



#1. Be upfront. State the price of goods and services clearly and accurately.

- Include mandatory charges in the headline price.
- If these charges cannot be calculated in advance, disclose the existence of such charges together with the headline price.



#2. Ensure that discounts are genuine. Be truthful about the duration of discount.

- Use genuine usual prices when making comparisons.
- Keep records of past sales and prices.
- State time period of discounts clearly and prominently.
- Time period of discounts should not be false or misleading.



#3. Provide key information to consumers.

- State key terms and conditions (T&Cs) such as on shipping, refunds and returns prominently and clearly.
- Clearly display hyperlink to T&Cs where it is not possible to disclose such T&Cs upfront due to space constraints.



#4. Ensure that product or service descriptions are truthful and accurate.

Do not make false or misleading claims in relation to country of origin, performance characteristics, functionality or regulatory approval of product and services.



#5. Do not post or pay for fake reviews.



#6. Monitor buyer queries and feedback to identify and remove potentially false or misleading claims.



For more guidance on pricing practices to avoid potential infringements of the Consumer Protection (Fair Trading) Act, refer to the CCCS Price Transparency Guidelines at www.cccs.gov.sg