
CONSEQUENTIAL AMENDMENTS TO OTHER CCS GUIDELINES



<Version for Public Consultation>

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1. CCS Guidelines on the Major Provisions, paragraph 1.3

1.3 The procedure for notification for guidance or decision and anti-competitive complaints are highlighted in Parts 7 and 8 respectively. A description of the provisions relating to confidentiality and disclosure of information appears in Part 9. The powers under the Act for investigation of undertakings believed to be involved in anti-competitive activities, and of enforcement, are described in Part 10 of these guidelines. The consequences of an infringement and the power to impose financial penalties on undertakings are discussed in Part 11. Part 12 explains the leniency programme provided for undertakings coming forward with information on cartel activity cases. Part 13 explains the fast track settlement procedure, while Part 14 explains the appeal system and rights of private action.

2. CCS Guidelines on the Major Provisions, paragraph 11.11

11.11 When setting the amount of any penalty, CCS will take into account the factors set out as follows:

- the seriousness of the infringement;
- the turnover of the business of the undertaking in Singapore for the relevant product and geographic markets affected by the infringement in the undertaking's last business year or, in the case of an infringing merger, the turnover of the relevant parties in Singapore for the relevant product and relevant geographic markets where competition is substantially lessened;
- the duration of the infringement or, for an infringing merger, the duration of time over which the merger parties took steps to carry the infringing merger into effect and over which the merged entity has been in place;
- aggravating or mitigating factors;
- other relevant factors e.g. deterrent value; and
- immunity, leniency reductions and/or fast track settlement procedure discounts.

Further details are given in the *CCS Guidelines on the Appropriate Amount of Penalty in Competition Cases*, the *CCS Guidelines on Lenient Treatment for Undertakings Coming Forward with Information on Cartel Activity 2016*, the *CCS Guidelines on the Procedure for Settlement* ~~*CCS Practice Statement on the Fast Track Procedure for Section 34 and Section 47 Cases*~~ and the *CCS Guidelines on Merger Procedures*.

3. CCS Guidelines on the Major Provisions, paragraph 13

13 FAST TRACK SETTLEMENT PROCEDURE

13.1 Once an investigation has commenced, CCS offers a fast track settlement procedure which will enable undertakings under investigation to enter into an agreement with CCS

under which they will acknowledge their participation in an anti-competitive activity and their liability for it in exchange for a reduced financial penalty and a shorter and expedited investigative timeframe.

13.2 More details on how CCS will administer its fast track settlement procedure as part of its enforcement strategy can be found in the CCS Guidelines on the Procedure for Settlement CCS Practice Statement on the Fast Track Procedure for Section 34 and Section 47 Cases.

4. CCS Guidelines on Directions and Remedies, paragraphs 6.19 and 6.20

Discount in Penalties for Undertakings that Settled Infringements

6.19 Undertakings that infringe section 35 or 47 of the Competition Act 2004 may be prepared to acknowledge their conduct and liability and waive their right to contest CCS's findings and decision of an infringement. Such undertakings can apply for settlement. An undertaking whose infringements are finally resolve via the Settlement Procedure will be eligible for a settlement discount on its financial penalties. Further information on eligibility for and reduction in the amount of financial penalties is set out in the CCS Guidelines on the Procedure for Settlement.

Lenient Treatment for Undertakings Coming Forward with Information

6.20 Undertakings participating in cartel activities might wish to terminate their involvement and inform CCS of the existence of the cartel activity, but be deterred from doing so by the risk of incurring large financial penalties. To encourage such undertakings to come forward, CCS will grant total immunity from financial penalties for an infringement of the section 34 prohibition to a participant in a cartel activity who is the first to come forward subject to certain conditions being met (including that the undertaking refrain from further participation in the cartel activity, except as directed by CCS). An undertaking which is not the first to come forward, or does not satisfy all of these conditions, may benefit from a reduction in the amount of the penalty imposed. Further information on immunity from, or reduction in the amount of financial penalties is set out in the CCS Guidelines on Lenient Treatment for Undertakings Coming Forward with Information on Cartel Activity 2016.

5. CCS Guidelines on the Appropriate Amount of Penalty in Competition Cases, paragraph 2.1

2.1 A financial penalty imposed by CCS under section 69 of the Act will be calculated following a six-step approach:

- calculation of the base penalty having regard to the seriousness of the infringement (expressed as a percentage rate) and the turnover of the business of the undertaking in Singapore for the relevant product and relevant geographic markets affected by the infringement in the undertaking's last business year. In this context, an undertaking's last business year is the financial year preceding the year when the infringement ended ("relevant turnover");

- adjustment for the duration of the infringement;
- adjustment for other relevant factors, e.g. deterrent value;
- adjustment for aggravating or mitigating factors;
- adjustment if the statutory maximum penalty under section 69(4) of the Act is exceeded; and
- adjustment for immunity, leniency reductions and/or fast track settlement procedure discounts.

6. CCS Guidelines on the Appropriate Amount of Penalty in Competition Cases, header of Step 6 and paragraph 2.23

Step 6 – Adjustment for immunity, leniency reductions and/or fast track settlement procedure discounts

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2.23 CCS will also adjust the penalty to take into account the discount applicable for an undertaking that agrees to CCS's fast track settlement procedure. The discount for the fast track settlement procedure will be in addition to any applicable leniency reductions.