

**MEMORANDUM OF UNDERSTANDING ON IMPLEMENTATION OF
COMPETITION LAW**

BETWEEN

**THE COMPETITION AND CONSUMER COMMISSION OF SINGAPORE (CCCS)
OF THE REPUBLIC OF SINGAPORE**

AND

**THE COMMISSION FOR THE SUPERVISION OF BUSINESS COMPETITION (KPPU)
OF THE REPUBLIC OF INDONESIA**

**Paragraph 1
Purpose**

1.1 The purpose of this Memorandum of Understanding (“**MoU**”) is to contribute to the effective enforcement of the competition laws in Indonesia and Singapore through the establishment of a framework for cooperation between the Commission for the Supervision of Business Competition and the Competition and Consumer Commission of Singapore (hereinafter collectively referred to as “the competition authorities”, and individually referred to as “the competition authority”).

1.2 The competition authorities will promote competition in the two countries by addressing anti-competitive activities in accordance with the laws and regulations of their respective countries, in order to facilitate the development and operation of well-functioning markets in their respective countries. To achieve this, the competition authorities agree to take appropriate measures which adhere to the principles of transparency, non-discrimination and procedural fairness.

1.3 The competition authorities will cooperate with and provide assistance to each other to the extent consistent with the laws and regulations in force in their respective countries, their respective important interests and reasonably available resources. Each competition authority will respect the other competition authority’s autonomy in the performance of its functions and discharge of its duties pursuant to its laws and regulations.

**Paragraph 2
Definitions**

For the purposes of this MoU:

- (a) the term “competition laws” means:
 - (i) for Indonesia, the Law No. 5 Year 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition, and its implementing regulations as well as any amendments thereto; and
 - (ii) for Singapore, the Competition Act (Chapter 50B) and its implementing regulations as well as any amendments thereto;
- (b) the term “enforcement activities” means any enquiry, proceeding, or investigation conducted by a competition authority in relation to the application of the competition law of its country to proscribe anti-competitive activities, and

(c) the term “anti-competitive activities” means any conduct or transaction that may be subject to penalties or relief under the competition laws of the respective countries.

**Paragraph 3
Notification**

3.1 Each competition authority will notify the other competition authority of any enforcement activity it conducts that the notifying competition authority considers may affect the important interests of the other competition authority.

3.2 Provided that it is not contrary to the laws and regulations of the country of the notifying competition authority and does not adversely affect any enforcement activity being carried out by the notifying competition authority, notification pursuant to subparagraph 3.1 will be given as promptly as possible when the notifying competition authority becomes aware that its enforcement activities may affect the important interests of the other competition authority.

**Paragraph 4
Exchange of Information**

Each competition authority will, upon request, provide the other competition authority with information that is relevant to the enforcement activities of the requesting competition authority to the extent consistent with the laws and regulations of the country of the providing competition authority, its important interests and reasonably available resources of the providing competition authority.

**Paragraph 5
Confidentiality**

5.1 Each competition authority will, in accordance with the laws and regulations of its country, maintain the confidentiality of any information provided by the other competition authority under this MoU.

5.2. Information, other than publicly available information, provided by the notifying competition authority to the other competition authority under this MoU will be used by the receiving competition authority only for the purpose of the effective enforcement of its competition laws and will not be communicated by the receiving competition authority to other authorities and/or any third party.

5.3. Notwithstanding any other paragraphs of this MoU, neither competition authority is required to provide information to the other competition authority if it is prohibited from providing the information by the laws and regulations of its country, or if providing such information is incompatible with its important interests.

5.4. Information, other than publicly available information, provided by a competition authority to the other competition authority under this MoU will not be used by the receiving competition authority in criminal proceedings in a court of law and/or presided over by a judge.



Paragraph 6
Coordination of Enforcement Activities

6.1 Where the competition authorities are pursuing enforcement activities with regard to the same matter or matters that are related to each other, the competition authorities may consider coordination of their enforcement activities. Such coordination shall be carried out in a manner which is consistent with the laws and regulations of the respective countries and subject to the reasonably available resources of each competition authority.

6.2 Each competition authority may, at any time, subject to appropriate notification to the other competition authority, limit or terminate the coordination of enforcement activities and pursue its enforcement activities independently.

Paragraph 7
Cooperation Regarding Anti-competitive Activities in the Country of a Competition Authority that Adversely Affect the Important Interests of the Other Competition Authority

7.1 If a competition authority believes that anti-competitive activities carried out in the country of the other competition authority adversely affect its important interests, that competition authority, taking into account:

- (a) the importance of avoiding conflicts resulting from its enforcement activities with regard to such anti-competitive activities; and
- (b) that the other competition authority may be in a position to conduct more effective enforcement activities with regard to such anti-competitive activities,

may request that the other competition authority initiate appropriate enforcement activities.

7.2 The request made under subparagraph 7.1 should be as specific as possible in setting out the nature of the anti-competitive activities and their effect on the important interests of the requesting competition authority, and should include an offer of further information and other forms of cooperation that the requesting competition authority is able to provide.

7.3 The requested competition authority will carefully consider whether to initiate enforcement activities, or expand ongoing enforcement activities, to address the anti-competitive activities identified in the request made under subparagraph 7.1. The requested competition authority will inform the requesting competition authority of its decision as soon as practically possible. If enforcement activities are initiated, the requested competition authority will inform the requesting competition authority of their outcome and, to the extent possible, of any significant interim developments.

7.4 Nothing in this paragraph limits the discretion of the requested competition authority under the competition laws of its country and its enforcement policies to determine whether to undertake enforcement activities with respect to the anti-competitive activities identified in the said request, or precludes the requesting competition authority from withdrawing its request.

Paragraph 8
Communication

8.1 The competition authorities will work together in the following areas, subject to the reasonably available resources of each competition authority:

- (a) keeping each other informed of significant developments in competition policy and enforcement of the competition laws in their respective countries;
- (b) exchanging experiences on enforcement of the competition laws and market studies, when appropriate;
- (c) seeking information from each other regarding matters of competition policy and enforcement of the competition laws in their respective countries; and
- (d) discussing developments relating to bilateral or multilateral fora that may be relevant to the cooperative relationship between the competition authorities.

8.2 The competition authorities will appoint the following liaisons for the purpose of facilitating cooperation based on this MoU:

The Commission for the Supervision of Business Competition: International Cooperation Division.

The Competition and Consumer Commission of Singapore: International & Strategic Planning Division.

8.3 Communication between the competition authorities may be carried out by telephone, electronic mail, videoconference, meeting or other means, as appropriate.

Paragraph 9 Technical Cooperation

The competition authorities recognise that it is in their common interest to work together in technical cooperation activities related to strengthening of competition policy and implementation of the competition laws of both countries. Such technical cooperation activities may include, subject to the reasonably available resources of each competition authority, the following:

- (a) exchange of personnel of the competition authorities for training purposes;
- (b) participation of personnel of the competition authorities as lecturers or consultants at training courses on the implementation of competition laws and policy organised or sponsored by either or both competition authorities; and
- (c) any other form of technical cooperation as the competition authorities will jointly decide upon.

Paragraph 10 Others

10.1 The cooperation under this MoU will commence on the date of signature and shall remain in effect until such time as the MoU is terminated pursuant to the procedures set out in Paragraph 10.2 below.

10.2 Either competition authority may terminate the cooperation under this MoU upon giving thirty (30) days' written notice to the other competition authority.

10.3 This MoU may be modified at any time with the mutual written consent of the competition authorities.

10.4 Nothing in this MoU is intended to create legally binding rights or obligations.

10.5 The competition authorities will consult with each other regarding any issues concerning the implementation of this MoU.

10.6 Supplementary arrangements to implement this MoU may be made with the mutual written consent of the competition authorities.

Signed on this 30th day of August, 2018, in two copies in the English and Bahasa Indonesia languages, both texts being equally authentic. In case of any dispute or divergence in interpretation, the English text of the MoU shall prevail.

For the Competition and Consumer
Commission of Singapore



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Mr. Toh Han Li
Commissioner and Chief Executive
Competition and Consumer
Commission of Singapore

For the Commission for the Supervision
of Business Competition



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Dr. Kurnia Toha
Chairman
Commission for the Supervision of
Business Competition