



MEDIA RELEASE

5 July 2018

Grab/Uber Merger: CCCS Provisionally Finds that the Merger Has Substantially Lessened Competition, Proposes Directions to Restore Market Contestability and to Impose Financial Penalties on the Parties

The Competition and Consumer Commission of Singapore (“CCCS”) has issued a Proposed Infringement Decision (“PID”)¹ against Grab² and Uber³ (each a “Party”, and collectively the “Parties”) in relation to the sale of Uber’s Southeast Asian business to Grab in consideration of Uber holding a 27.5% stake in Grab (“Transaction”). In the PID, CCCS has provisionally found that the Transaction has led to a substantial lessening of competition (“SLC”) in the provision of chauffeured point-to-point transport (“CPPT”) platform services in Singapore (i.e. ride-hailing platform services).

2. On 26 March 2018, Grab and Uber announced and completed the Transaction, and began the transfer of the acquired assets immediately. On 27 March 2018, CCCS commenced an investigation into the Transaction which constitutes a merger under the Competition Act. On 13 April 2018, Interim Measures Directions were issued by CCCS to help ensure that the market remains open and contestable during CCCS’s investigation.⁴

3. CCCS has concluded its investigation after obtaining evidence from the Parties and third parties. CCCS has provisionally found that the Transaction has removed competition between Grab and Uber, which were each other’s closest competitor. The merged entity is likely to be able to increase prices and has in fact done so since the completion of the Transaction⁵.

¹ The PID sets out the facts on which CCCS relies and the reasons for arriving at the proposed decision. It is issued to provide Parties with an understanding of the basis for CCCS’s provisional findings, to assist Parties to make representations and provide any other information to support Parties’ representations for CCCS’s consideration.

² All references to “Grab” in this media release may refer to Grab Inc., and its subsidiaries and any other related entities including but not limited to GrabCar Pte. Ltd., GrabTaxi Holdings Pte. Ltd., GrabTaxi Pte. Ltd., Grab Rentals Pte. Ltd. and Grab Rentals 2 Pte. Ltd.

³ All references to “Uber” in this media release may refer to Uber Technologies, Inc., and its subsidiaries and any other related entities including but not limited to Uber Singapore Technology Pte. Ltd., Lion City Holdings Pte. Ltd., Lion City Rentals Pte. Ltd., Lion City Automobiles Pte. Ltd., and LCRF Pte. Ltd..

⁴ The Interim Measures Directions remain effective until such time CCCS issues a final decision or otherwise resolves any competition concerns that may arise from the Transaction, or unless otherwise varied by CCCS due to material changes in market conditions.

⁵ Prices net of rider promotions and driver incentives.

CCCS's Provisional Findings

4. CCCS's investigation has found evidence that Uber would not have left the Singapore market in the near to medium term in the absence of the Transaction. It would either have continued its operations or merged its Southeast Asian business with other potential buyers who were not its current competitors in Singapore. Uber had entered into an agreement to collaborate with ComfortDelGro with the introduction of UberFlash to compete with Grab, and the collaboration was only withdrawn after the Transaction⁶. The Transaction has therefore removed competition between the two closest prevailing competitors in the CPPT platform services market in Singapore.

5. CCCS found that taxi booking services pose an insufficient competitive constraint to the Parties, with less than 15% market share. CCCS is also of the view that barriers to entry and expansion in relation to the ride-hailing platforms are high due to strong network effects⁷, particularly given that Grab had imposed exclusivity obligations on taxi companies, car rental partners, and some of its drivers. Without any intervention from CCCS, it could continue to hamper the ability of potential competitors to access drivers and vehicles.

6. With the exclusivity-reinforced network effects, any new entrant would likely have to incur significant amount of upfront capital in order to attract drivers and riders. Such expenditure includes driver incentive schemes and rider promotions, in addition to acquiring a sufficient fleet of vehicles and pool of drivers, as well as partnerships with taxi operators. In this regard, potential new entrants have provided feedback to CCCS that without any intervention from CCCS, it would be difficult to attain a sufficient network of drivers and riders to provide a satisfactory product and experience to both drivers and riders so as to compete effectively against Grab.

7. Without sufficient competition post-Transaction, Grab would be able to raise fares for riders and commission rates for drivers, lower the quality of its services and reduce innovating its product offerings. The Parties' customers and competitors have raised concerns over potential increased fares and commission rates, and reduced service quality and innovation. Further, CCCS has received numerous complaints from both riders and drivers in relation to the increase in effective price post-Transaction (e.g. via a decrease in quantum and frequency of rider promotions and driver incentives), reflecting Grab's ability to increase effective prices post-Transaction.

⁶ On 25 May 2018.

⁷ A ride-hailing platform that has built up high levels of usage is more attractive to new drivers and riders than a competitor with less usage whose offerings may otherwise be the same. The indirect network effect reinforces the incumbency of the existing players present in the market, and greatly increases the time and upfront expenditure needed for a new potential entrant to build up a driver network and rider network similar in scale and size to the Parties.

8. In addition, CCCS noted that the market for the rental of chauffeured private hire cars (“CPHCs”) is characterised by considerable barriers to expansion such as significant amount of time and upfront capital expenditure to build a car rental network of sufficient scale, and a higher cost of maintaining CPHC vehicles as compared to normal rental vehicles. Hence, the CPHC rental companies may not be able to expand and compete effectively without a tie-up with a ride-hailing platform. Post-Transaction, Grab would be in a strong position to put in place exclusive arrangements with the CPHC rental companies and the drivers who rent from these companies in order to reinforce its position in the ride-hailing platform services market.

9. Finally, the Parties have not been able to show that the Transaction gives rise to efficiencies that would outweigh the harm to competition.

10. Based on its overall assessment of all information available, CCCS proposes a finding that the Transaction, having been carried into effect, has infringed section 54 of the Competition Act⁸.

CCCS’s Proposed Directions

Proposed Remedies

11. CCCS has proposed remedies to address the SLC concerns, restore market contestability, and mitigate the adverse effects resulting from the Transaction. These include:

- a. The removal of exclusivity obligations, lock-in periods and/or termination fees on all drivers who drive on Grab’s ride-hailing platform and/or who rent from Grab Rentals, Lion City Rentals or rental partners of Grab so as to increase choices for drivers and riders and improve market contestability;
- b. The removal of Grab’s exclusivity arrangements with any taxi/CPHC fleet in Singapore so as to increase choices for drivers and riders and improve market contestability;
- c. The maintenance of Grab’s pre-Transaction pricing algorithm and driver commission rates until competition is revived in the market so as to alleviate the adverse pricing effects on riders and drivers arising from the Transaction; and
- d. Requiring Uber to sell Lion City Rentals (or all or any part of Lion City Rentals’ assets) to any potential competitor who makes a reasonable offer and preventing Uber from selling Lion City Rentals (or all or any part of Lion

⁸ Section 54 of the Competition Act prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition in Singapore.

City Rentals' assets) to Grab without CCCS's prior approval. This prevents Grab and Uber from aligning Lion City Rentals with Grab to the disadvantage of Grab's potential competitors, and will facilitate a new entrant's access to a vehicle fleet.

12. In this regard, CCCS now invites public feedback on the proposed remedies as to whether they are sufficient and workable to address the harm to competition resulting from the Transaction. More information on the public consultation can be accessed and downloaded from the CCCS website, www.cccs.gov.sg, under the "Active Public Consultation" page of the "Public Register and Consultation" section. The closing date for submissions is **19 July 2018**. If the submission or correspondence contains confidential information, please also provide CCCS with a non-confidential version of the submission or correspondence.

13. CCCS may require the Parties to unwind the Transaction unless the aforesaid public consultation confirms that any of the proposed remedies, or any further remedies, are sufficient to address the identified competition concerns, and are implementable in practice.

14. The Parties still have the ability to propose commitments to address any competition concerns after CCCS has issued a PID, and before CCCS issues a final infringement decision.

Proposed Financial Penalties

15. CCCS proposes to impose financial penalties upon Grab and Uber respectively⁹, as CCCS has found that they have carried the Transaction into effect despite having anticipated potential competition concerns, and caused an SLC in the ride-hailing service platform market in Singapore.

16. Notably, CCCS had sent a letter to each Party on 9 March 2018 to explain Singapore's merger notification regime and CCCS's corresponding powers to investigate, give directions, impose financial penalties and/or impose interim measures on the Parties. Under Singapore's merger notification regime, the Parties had the option of notifying the Transaction for CCCS's clearance or seeking CCCS's confidential advice prior to completing the Transaction. Nevertheless, on 26 March 2018, the Parties proceeded to complete the Transaction and began the transfer of the acquired assets immediately, despite their own view that the outcome would be irreversible, thus rendering it practically impossible to restore the status quo pre-

⁹ As the Parties have the right to make representations on financial penalties, CCCS will duly consider these representations before it finalises the actual amount of financial penalties in its final decision. Please refer to the background description below for more details on the CCCS' financial penalties framework.

merger. CCCS's investigations also revealed that the Parties had even provided for a mechanism to apportion eventual antitrust financial penalties.

Next Steps

17. The Parties have 15 working days from the receipt of the PID to make their representations to CCCS. CCCS will then make its final decision, after consideration of the representations, comments/feedback on the proposed remedies, as well as all available information and evidence.

-End-

About the Section 54 Prohibition under the Competition Act & Merger Procedures

Section 54 of the Act prohibits mergers that have resulted, or may be expected to result, in a substantial lessening of competition in Singapore.

A merger takes place where:

- Two or more independent business entities merge;
- One or more business entities acquire direct or indirect control of another entity; or
- One entity acquires all or a substantial part of the assets of another entity such that it can replace or substantially replace that entity in the business or in the relevant part of the business.

CCCS is generally of the view that competition concerns are unlikely to arise in a merger situation unless:

- The merged entity has/will have a market share of 40% or more; or
- The merged entity has/will have a market share of between 20% to 40% and the post-merger combined market share of the three largest firms is 70% or more.

Merging entities are not required to notify CCCS of their merger but they should conduct a self-assessment to ascertain if a notification to CCCS is necessary. If they are concerned that the merger has infringed, or is likely to infringe, the Act, they should notify their merger to CCCS. In such cases, CCCS will assess the effect of the merger on competition and decide if the merger has resulted, or is likely to result, in a substantial lessening of competition (“**SLC**”) in Singapore.

Separately, CCCS has the power to conduct an investigation into an un-notified merger if there are reasonable grounds for suspecting that the merger infringes section 54 of the Act. In the event CCCS finds that a merger situation has resulted or is expected to result in an SLC, CCCS has powers to give directions to remedy the SLC. For example, CCCS can require the merger to be unwound or modified to address or prevent the SLC, as the case may be. CCCS may also consider issuing interim measures prior to the final determination of the investigation.

CCCS also has the power to impose financial penalties where a merger has resulted in SLC and the infringement is committed intentionally or negligently. Financial penalties are calculated based on CCCS’s financial penalty calculation framework; CCCS takes the turnover of each party in the relevant market affected, multiplied by an appropriate starting percentage reflecting the seriousness of the infringement and adjusted for factors such as duration of the proposed infringement, deterrent value, as well as any aggravating and mitigating factors (including whether the Parties has co-

operated with CCCS). The quantum of the financial penalty cannot exceed 10% of each Party's total turnover in Singapore for each year of infringement, up to a maximum of three (3) years.

For more information, please visit www.cccs.gov.sg

About The Competition and Consumer Commission of Singapore

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.

For more information, please visit www.cccs.gov.sg

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