

Premium

More holistic protection for consumers with new CCCS

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On April 1, the Competition Commission of Singapore (CCS) expanded its role by taking on the consumer protection function that was previously under Spring Singapore.

Its new role includes preventing suppliers from engaging in unfair practices, promoting fair trading practices, and enforcing the Consumer Protection (Fair Trading) Act.

The new agency has been renamed the Competition and Consumer Commission of Singapore (CCCS).

The consolidation of the functions of protecting fair trading and competition into one agency follows from similar practices in jurisdictions like the Australian Competition and Consumer Commission in Australia, and the Federal Trade Commission in the United States.

As the new consumer protection agency, the CCCS is empowered to conduct investigations into unfair practices where it has reasonable grounds for suspecting that a supplier has engaged in such practices.

However, the CCCS is not intended to function as a new one-stop shop for consumers to raise their grievances. The CCCS does not hear consumer complaints - these would still need to be raised with the Consumers Association of Singapore (Case), the Singapore Tourism Board, and other bodies designated to manage consumer grievance.

Case and other such bodies also continue to play a role in facilitating mediation and engaging with the offending supplier to come to a voluntary agreement that it would cease the unfair practice and compensate consumers who have suffered loss.

The CCCS is also not a regulatory body with standalone powers to issue an infringement decision that an unfair practice has taken place, impose financial penalties for such infringements, or request offending entities to compensate customers.

Instead, when dealing with consumer protection issues, the CCCS must apply to the court for a declaration, for example, that an unfair practice has taken place, or for an injunction restraining such an unfair practice. The power to grant the declaration or injunction ultimately lies with the court.

The CCCS also does not have the power to order compensation to consumers who have suffered loss; consumers themselves have to commence a civil claim in court (for example, the Small Claims Tribunal) for

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compensation.

Consumer protection and competition laws generally tend to be concerned with the same objective of safeguarding consumers' interests.

In its former iteration, several matters reviewed by the CCS over the years had a strong consumer protection objective to them, although ensuring competition between businesses in a market remained at its core. Matters reflecting a strong concern for consumers included the CCS tackling high formula-milk prices and preventing exclusivity in the automotive industry.

Safeguarding consumers, however, goes beyond a concern for low prices and better quality and service standards. It also involves ensuring that consumers are not pressured into purchasing based on false or misleading advertising, or do not fall prey to bait-and-switch tactics, among others. Competition law tools are designed to address the former, while consumer protection laws are more appropriate for the latter.

By consolidating the consumer protection and competition function, the CCCS may perhaps be more forthright in considering the different aspects of consumer interest, and will be armed with additional tools to ensure that consumers are protected in a more holistic manner, even as the competition impact between businesses is studied.



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Under the Competition Act, the former CCS was empowered only to conduct market studies and inquiries if they related to competition issues. By taking on the consumer protection function, the CCCS is now also empowered to carry out investigations where it has reasonable grounds for suspecting unfair trading practices. This is more efficient, allowing a single regulator to address both consumer protection and competition issues that may arise in a market under inquiry.

The CCCS announced last Monday that it will undertake two market studies that will clearly cross the competition and consumer protection arenas. The first is a market study on the online travel-booking sector, which reflects the use of the digital economy in the travel industry through online travel-booking platforms. The second is a market study that is intended to examine consumer protection, competition and personal data protection issues, which could arise if a data portability requirement is introduced in Singapore.

All said, however, the competition regulation and the consumer protection regulation continue to sit in two separate pieces of legislation. This suggests that while oblique reference will be made to consumer protection concerns in a competition review, it will not be an application of the two pieces of legislation across the respective areas as they remain in separate jurisdictional purviews. In the review of competition matters, the CCS did already consider consumer welfare as part of total welfare in its analysis.

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Giving the CCCS more enforcement powers will make it more effective in protecting consumers - such as by empowering it to issue infringement decisions on unfair trade practices and to impose fines and other directions to address such practices. It would also harmonise the CCCS' procedural processes, by avoiding the existing dual-track system of having to go through the courts for injunctions and declarations on consumer protection issues, while being able to independently issue fines and directions for competition law infringements.

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