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INNOVATIONS AND COMPETITION IN LAND TRANSPORT

-- Note by Singapore --

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-- SINGAPORE¹ --

1. Introduction

1. The Competition Commission of Singapore (“CCS”)² administers and enforces the Competition Act (“the Act”) in Singapore. One of the key functions of CCS is to maintain and enhance efficient market conduct and promote overall productivity, innovation and the competitiveness of markets in Singapore.³ It is pertinent to note that the Act has extra-territorial effect and the scope of its application extends to all markets unless they are excluded under the Third and Fourth Schedules to the Act. As such, the commercial practices and developments in the road transport industry, unless specifically regulated by another government agency, fall within the scope of the Act.

2. This paper discusses how CCS had helped to promote innovation and competition in the road transport industry. Specifically, the paper will highlight case examples involving third-party taxi booking apps. The first case study highlights how CCS worked together with the Land Transport Authority (“LTA”) to ensure that the benefits from third-party taxi booking apps were reaped with minimal harm to competition. In the second case study, CCS examined a complaint about the alleged exclusive dealing arrangements in the market for third-party taxi booking apps in Singapore, but eventually assessed that there was a lack of harm to competition in the market. Finally, the paper briefly considers the developments and future challenges in the road transport industry, and how CCS can continue to play a role to provide an enabling framework that promotes innovation in the industry.

2. Case study 1: Regulation of third-party taxi booking apps

2.1 Background

3. “The introduction of third-party taxi booking apps is a positive development, as they can improve the matching of taxi supply and demand, particularly during peak hours. Commuters who use third-party apps are not restricted to sourcing for taxis from just one taxi company. Taxi drivers, on the other hand, can tap on multiple sources of bookings to get passengers. The third-party taxi booking apps sector is relatively young and it is still evolving. New technologies and business models are continuing to emerge. While the Ministry has decided to regulate, we also recognise the need to allow enough space for the market to innovate and thrive.” – Singapore’s Minister for Transport at the Second Reading of the Third-Party Taxi Booking Service Providers Bill in Parliament on 11 May 2015.

¹ Contribution written by LEE Cheow Han, Assistant Chief Executive (Legal & Enforcement), Competition Commission of Singapore.

² Besides investigating and enforcing against business practices that have an adverse effect on competition in Singapore, CCS also represents Singapore in respect of competition matters in the international arena.

³ Section 6(1)(c) of the Competition Act (Cap. 50B).

4. When third-party taxi booking apps first appeared in Singapore in late 2013,⁴ there was a spate of protests and intense lobbying by taxi drivers and companies in various parts of the world against these third-party taxi apps due to the fact that these apps were not subject to the same regulatory requirements as licensed taxi operators. While LTA licenses taxi companies and regulates their service performance, there were no specific regulations in place for these third-party taxi booking apps.

5. The near-ubiquity of smart phones in Singapore facilitated the entry of several taxi booking mobile apps like Uber and GrabTaxi which allowed commuters to book rides with any taxi driver – unlike the booking services run by taxi companies which are limited to a smaller pool of drivers. These apps are a win-win for both taxi drivers and commuters: commuters enjoy greater convenience in booking taxis and taxi drivers have easier access to a wider pool of commuters. CCS viewed these apps as a form of disruptive innovation that could potentially resolve the mismatch between demand and supply of taxi services (especially at peak hours) as they bring taxis from different companies into a common pool to meet commuters' demand. Third-party taxi booking services encourage greater competition and innovation and improve service quality and customer satisfaction. However, the aggressive marketing strategies adopted by these third-party taxi booking apps in Singapore soon came to the attention of CCS in 2014.

6. While the commercial practices of the taxi industry comes under the purview of the competition law in Singapore, CCS recognized that LTA might be in a better position to address the issues of protecting commuters' interests and safety as it was about to undertake a review of its regulations of the industry at that point in time.

2.2 *Actions undertaken by CCS*

7. In order to engage LTA in a meaningful way, CCS conducted a market study to better understand the competitive landscape of the industry as well as the potential benefits and concerns that the third-party taxi apps brought about. In the course of the market study, CCS spoke to several key stakeholders in the industry, which included LTA, taxi drivers, commuters, as well as the third-party taxi apps providers.

8. The taxi drivers and commuters generally welcomed the third-party taxi booking apps as the apps provided more opportunities for the taxi drivers to receive more bookings and for the commuters to access lower booking fees and higher success rates of booking a taxi. One of the taxi companies that CCS spoke to also revealed that it welcomed the additional opportunities for bookings that these third-party apps brought for its drivers. However, it was concerned that this would result in its drivers being diverted to respond to bookings from the third-party taxi apps instead of the company's call bookings, which might result in its failure to meet the call booking fulfilment standards set out by LTA⁵ as part of the licensing conditions.

9. There were also several other concerns that were brought to CCS's attention in the course of the market study as well. A third-party app provider noted that it was unclear whether third-party taxi booking apps have the right to set their own booking fees as they did not have a licence from LTA. This was unlike the licensed taxi companies which had the right to determine their taxi fares and booking fees.

⁴ Before the entry of third-party taxi apps, taxi companies were the main providers of taxi booking services. However, the taxi companies' call centres could not accommodate the high traffic of calls during peak hours as commuters only had access to a specific taxi network at a time.

⁵ LTA imposes Quality of Service standards on taxi companies for taxi bookings – (i) call answer rate; (ii) waiting time for dispatch system to answer incoming calls; (iii) cater rate and (iv) waiting time for dispatch system to confirm a taxi from the time the call is answered.

10. CCS concluded from the market study in 2014 that the entry of the third-party taxi booking apps would benefit consumers, taxi drivers and some of the taxi companies in the industry. However, there was a need for greater regulatory certainty to help facilitate the entry of these third-party taxi booking apps into Singapore. The desired pro-competitive outcome was for the third-party taxi booking apps to be able to grow organically based on market forces.

11. On the other hand, CCS also noted that there should be a review of the call booking standards imposed by LTA on the licensed taxi companies so as to address the concerns raised by the taxi companies.

2.3 Outcomes

12. With the findings of the market study in hand, CCS met LTA in June 2014 to share its feedback and recommendations for LTA's consideration when it reviewed the regulations for the taxi industry. CCS shared that the third-party taxi booking apps were disruptive innovations that would bring about public benefits to the industry. While CCS agreed with LTA that some form of regulation was required to mitigate the negative externalities arising from these third-party apps and to protect commuters' interests, CCS recommended a calibrated light touch approach to the regulations so as not to unnecessarily stifle the entry and growth of these third-party taxi booking apps.

13. In August 2014, LTA requested for CCS's advice on their proposed taxi regulations and in particular, the likely impact of the proposed regulations on the market for taxi booking services. The proposed regulations required the provider of third-party taxi booking apps with more than 20 participating taxis to apply for a certificate of registration every three years. Once registered, the third-party taxi booking apps must only dispatch licensed taxis and drivers, as well as to uphold a certain level of service standards to safeguard commuters' interests. For example, all information on fare rates, surcharge and the fees payable for the journey would have to be disclosed upfront by the third-party apps. The third-party taxi booking apps would also have to make it optional for commuters to specify their destination before making a booking. In addition, the third-party apps must also provide basic customer support services, such as customer service feedback and the provision of help for lost-and-found.

14. The proposed regulations also stipulated that booking fees charged by the third-party taxi booking apps cannot exceed the booking fees charged by the taxi companies. Bidding and pre-trip tipping are not allowed so as to ensure that taxi services remain equally accessible to all. While CCS considered that price regulation of third-party taxi booking apps could restrict their commercial flexibility, CCS accepted LTA's considerations and reasons for such a regulation. Overall, the proposed regulations provided a good balance between ensuring efficient safeguards for consumers regardless of whether a booking is made through a taxi company or a third-party app while at the same time allowing the entry and growth of these third-party apps.

15. The Third-Party Taxi Booking Service Providers Act was passed by the Parliament in May 2015. The regulatory framework seeks to balance the need for commuters' protection with the flexibility for innovation in the taxi industry, so that these apps can compete fairly and enhance the provision of taxi services in Singapore, benefiting both commuters and taxi drivers. In adopting a "light touch" regulatory approach, LTA worked with CCS to assess the competition impact of these third-party apps on the taxi industry and encourage innovation within the market while at the same time, preserving the fundamental tenets of LTA's taxi regulatory policies. Since then, there have been several third-party taxi booking apps providers that have received the certificates of registration to operate their third-party taxi booking apps in Singapore.⁶ There have also been positive indications that the industry has benefitted from the entry of the third-party apps, such as the increased rate of successful matches of taxi supply and passenger demand.

⁶ As at 19 August 2016, GrabTaxi, Hailo, ConnexTaxi, UberTaxi, Karhoo, Moobi, Boon Lay Garden Radio Taxi Services, Taman Jurong Radiophone Taxi Services and Islandlink Limousines & Cabs have been issued with certificates of registration. <https://www.lta.gov.sg/content/ltaweb/en/public-transport/taxis/third-party-taxi-booking-service-providers.html>

3. Case study 2: Exclusive dealing arrangements in market for third-party taxi booking apps

16. In March 2015, CCS received a complaint from a third-party taxi booking app provider regarding exclusive dealing arrangements in the market for third-party taxi booking apps in Singapore. The theory of harm was that the incentive scheme offered to taxi drivers by a dominant third-party booking app provider foreclosed competition and may eventually lead to a monopoly; with fewer taxi drivers on board the app, fewer commuters will use the app and as both user groups drop out gradually due to the network effects, the app may be phased out of the market. CCS looked into the complaint and found that the impact of the conduct was likely to be limited and insignificant in terms of the number of taxi booking jobs in Singapore. CCS also found that it was unlikely that the alleged conduct, if it did actually take place, was unlikely to foreclose competition in the market for the provision third-party taxi booking apps.

17. On the contrary, the evidence suggested that there was intense competition between the third-party taxi booking apps providers to attract both drivers and commuters. The third-party taxi booking apps would offer various differing incentives for its drivers, as well as provide lower booking fees and periodic promotions for commuters.⁷ As a result of the price competition, the growth in market share of a third-party taxi app operator occasionally dips depending on the incentives and promotions offered to taxi drivers and commuters. The market appeared to be very dynamic and it seemed that competition was thriving.⁸ On these grounds, CCS concluded that there was a lack of harm to competition from the alleged conduct.

4. Future challenges

18. There has been a steady stream of innovative developments in the road transport industry in Singapore over the past few years. Besides the introduction and growth of third-party taxi booking apps, other recent developments include the trial launch of the world's first driverless taxi in August 2016.⁹ CCS welcomes such disruptive innovation as they usually bring about benefits and introduce competition in the market. However, CCS also recognizes that regulators may have to introduce new regulations to address the concerns that may arise from such innovation.

19. In this regard, CCS stands ready to provide its expertise and advice on competition issues to other government agencies to ensure that regulatory actions do not inadvertently or unduly restrict competition. One of the ways that CCS does this is to publish the *CCS Guidelines on Competition Impact Assessment for Government Agencies*.¹⁰ These guidelines provide other government agencies with a toolkit to assess how their regulatory actions may affect competition in the market. The toolkit provides an introduction to competition principles, as well as an explanation of how government agencies can use the Competition

⁷ In its first two years of operation in Singapore, Uber frequently offered no-booking fee rides, especially around public holidays, starting with a 25% off fares promotion upon its launch. When it entered the Singapore market, Hailo offered SGD 10 (Singapore dollars) credit for new customers who signed up with Hailo and rewards them with credits for each successive day a customer makes a booking with Hailo.

⁸ In August/September 2015, Easy Taxi exited the Singapore market. An Easy Taxi spokesman from Brazil was reported to have said that "Highly funded competition and market dynamics have led us to centre our efforts on selected core markets in Latin America, Middle East and Africa" which resulted in its scaling down of operations in Asia. <http://www.straitstimes.com/singapore/transport/easy-taxi-exits-singapore-amid-stiff-competition>

⁹ <http://www.straitstimes.com/singapore/transport/worlds-first-driverless-taxi-trial-kicks-off-in-singapore>

¹⁰ https://www.ccs.gov.sg/legislation/~/_media/custom/ccs/files/legislation/ccs%20guidelines/guidelineoncompetitionassessmentcleanv114oct08rev.ashx

Impact Assessment framework or work with CCS to assess the potential impact of their policies or initiatives on competition in affected markets when conducting cost-benefit analyses.

20. CCS also provides government agencies with advice on competition related matters¹¹ and assists in designing pro-competitive policies that allow for disruptive innovations to grow in the road transport industry. In addition, CCS undertakes market studies to examine if the markets are working well and to understand the competitive landscape and the competition issues faced by the different stakeholders in the markets. Finally, CCS continues to monitor the innovative developments in the road transport industry so that it can address any potential competition issues related to such developments in the early stages.

¹¹ CCS has a statutory duty to advise the government or other public authority on national needs and policies in respect of competition matters: section 6(1)(f) of the Competition Act.