

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
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<http://www.oecd.org/daf/competition/designing-publicly-funded-healthcare-markets.htm>

Please contact Mr Chris PIKE if you have any questions about this document
[Email: Chris.Pike@oecd.org]

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Singapore

1. The Healthcare Market in Singapore

1. The healthcare market in Singapore is a mixed one that comprises both public and private providers of healthcare services.¹ Based on statistics from the Ministry of Health (“MOH”), which oversees the entire healthcare system in Singapore, primary care (i.e. care provided by general practitioners and community care) provided by the private sector accounts for 80% of the total primary care demand, with the remaining 20% provided by publicly-owned polyclinics.² On the other hand, secondary care (i.e. care provided by hospitals and specialists) is predominantly provided by the public sector, with an 80% of such services being provided by the publicly-owned restructured hospitals and specialty centres in Singapore.³ In the overall picture, the public sector has been outweighing the private sector.⁴

2. As regards healthcare financing, MOH’s philosophy is that good and affordable basic medical services should be provided for all Singaporeans.⁵ MOH achieves this by providing subsidised medical services in the public sector, while promoting individual responsibility for the costs of healthcare services through the operation of schemes such as Medisave (a national medical savings scheme), Medishield (a public insurance program), ElderShield (a basic long-term insurance plan for severe disabilities) and Medifund (an endowment fund). These schemes reflect MOH’s fundamental philosophy that patients are expected to exercise their individual choice by co-paying for part of their medical expenses and to pay more if they require a higher-than-basic level of service, which may include treatment by private healthcare providers.⁶ In this connection, individuals can opt for

¹ Khoo, L. (2004), Ministry of Health Information Paper: 2003/02, www.moh.gov.sg/docs/librariesprovider5/resources-statistics/information-papers/singapore_healthcare_market-share_analysis.pdf (accessed 2 November 2018).

² Ministry of Health (2018), “Primary Healthcare Services”, www.moh.gov.sg/our-healthcare-system/healthcare-services-and-facilities/primary-healthcare-services (accessed 2 November 2018).

³ CCS 400/001/09: *Notification for Decision: Singapore Medical Association – Guidelines on Fees* (18 August 2010), www.cccs.gov.sg/public-register-and-consultation/public-consultation-items/singapore-medical-association--guidelines-on-fees (accessed 2 November 2018), at [25].

⁴ Gideon, A., *Competition in the Healthcare Sector in Singapore – An Explorative Case Study*, NUS Law Working Paper 2016/009, October 2016, www.law.nus.edu.sg/wps/ (accessed 2 November 2018), at 9.

⁵ Ministry of Health (2018), “About Us”, www.moh.gov.sg/about-moh (accessed 2 November 2018)

⁶ CCS 400/001/09: *Notification for Decision: Singapore Medical Association – Guidelines on Fees* (18 August 2010), www.cccs.gov.sg/public-register-and-consultation/public-consultation-items/singapore-medical-association--guidelines-on-fees (accessed 2 November 2018), at [20].

additional private insurance in the form of policies such as Integrated Shield Plans, which supplement Medishield coverage and reduce out-of-pocket payments by the patient.⁷

2. Competition Law in Singapore

3. Competition law in Singapore is administered and enforced by the Competition and Consumer Commission of Singapore⁸ (“CCCS”), a statutory body established under the Competition Act (Cap. 50B) (“Competition Act”) and which operates under the purview of Singapore’s Ministry of Trade and Industry (“MTI”).

4. The three key prohibitions in the Competition Act are as follows:

1. **The section 34 prohibition** – section 34 of the Competition Act prohibits agreements, decision or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore.
2. **The section 47 prohibition** – section 47 of the Competition Act prohibits any conduct which amounts to the abuse of a dominant position in any market in Singapore.
3. **The section 54 prohibition** – section 54 of the Competition Act prohibits mergers and acquisitions that substantially lessen competition within any market in Singapore.

5. Section 6(1) of the Competition Act sets out CCCS’s functions and duties. Under section 6(1)(b) of the Competition Act, one of the key functions of CCCS is to eliminate or control practices having an adverse effect on competition in Singapore. In enforcing the three prohibitions set out above, CCCS is empowered to conduct investigations,⁹ issue infringement decisions,¹⁰ impose financial penalties on infringing parties,¹¹ and impose directions on the parties to remedy, mitigate or eliminate any adverse effects of the infringement and to prevent the recurrence of the same.¹² CCCS also has a voluntary notification regime for parties who wish to seek CCCS’s guidance or decision on whether their conduct would infringe any of the three prohibitions above.¹³

⁷ Gideon, A., *Competition in the Healthcare Sector in Singapore – An Explorative Case Study*, NUS Law Working Paper 2016/009, October 2016, www.law.nus.edu.sg/wps/ (accessed 2 November 2018), at 16.

⁸ Previously, CCCS was known as the Competition Commission of Singapore (“CCS”) and assumed its current name on 1 April 2018 after it became the administering agency of the Consumer Protection (Fair Trading) Act (Cap. 52A) (“CPFTA”), which aims to protect consumers against unfair trade practices in Singapore. For consistency, the name “CCCS” will be used throughout this contribution, even in relation to work undertaken by the CCS prior to 1 April 2018.

⁹ Section 62 of the Competition Act.

¹⁰ Section 68 of the Competition Act.

¹¹ Section 69(2)(d) of the Competition Act.

¹² Section 69(1) of the Competition Act.

¹³ Sections 43-46, 50-53, and 57-60 of the Competition Act.

6. Apart from its enforcement powers, CCCS is also responsible for advising the Government or other public authorities on national needs and policies in respect of competition matters generally, maintaining and enhancing efficient market conduct and promoting overall productivity, innovation and competitiveness of markets in Singapore, and promoting and sustaining competition in markets in Singapore.¹⁴ While section 33(4) of the Competition Act expressly excludes the conduct by the Government, any statutory body or any person acting on behalf of the Government or a statutory body from the ambit of the prohibitions above, these public agencies regularly seek CCCS's advice on the competition aspects of their initiatives. For example, for a 12 months' period from 1 April 2017 to 31 March 2018, CCCS issued 33 competition advisories to public agencies. CCCS has also issued a competition toolkit to assist government agencies and public officers in identifying and assessing the likely competition impact of their policies.¹⁵ The toolkit provides an introduction to competition principles, and also explains how government agencies can use the competition impact assessment framework or work with CCCS to assess the potential impact of their policies on competition in affected markets.

3. Outline of CCCS's Work in the Singapore Healthcare Market

7. In recent years, CCCS has played a key role in promoting pro-competitive policies in performing its statutory function role as the Government's competition advisor, as well as in resolving competition issues in the healthcare markets through its enforcement work.

8. To illustrate this, CCCS will discuss its work in the following areas of the healthcare market in Singapore in the sections below:

1. medical fees;
2. health insurance; and
3. infant healthcare.

3.1. Medical Fees

9. While all medical service providers in Singapore, regardless of whether they operate in the public or private sector, are free to set their own prices,¹⁶ they are bound by an ethical obligation to charge a fair and reasonable fee for services rendered.¹⁷ This ethical obligation cannot be superseded by a valid contractual agreement between the doctor and patient, in view of the doctor's specialised knowledge and training, and the corresponding

¹⁴ Sections 6(1)(a), 6(1)(c) and 6(1)(f) of the Competition Act.

¹⁵ Competition and Consumer Commission of Singapore (2018), *Government and Competition: A Toolkit for Government Agencies*, www.ccs.gov.sg/tools-and-resources/education-resources/government-and-competition-a-toolkit-for-government-agencies (accessed 2 November 2018).

¹⁶ In the private sector, prices are set by individual specialists while private general practitioners may either set their prices individually for medical services rendered, or collectively within a medical group or clinic. As for the public sector, the hospitals and the three polyclinic groups set their own prices for medical services rendered individually.

¹⁷ *Lim Mey Lee Susan v Singapore Medical Council* [2013] 3 SLR 900, at [136(a)].

duty to utilise these skills with conscience and dignity in the patient’s best interests.¹⁸ Separately, like all service providers, doctors are required to set their professional fees independently, and should not prevent, restrict or distort competition in Singapore by collectively implementing price recommendations or fee guidelines that would facilitate the convergence of such fees.¹⁹

10. The issue of price recommendations in the healthcare market came to the fore in the application by the Singapore Medical Association (“SMA”) to CCCS for a decision in relation to its Guideline on Fees (“GOF”) in 2009. SMA is an association which represents a majority of medical practitioners in Singapore and should not be confused with the Singapore Medical Council (“SMC”), a statutory body created under the Medical Registration Act (Cap. 174) which regulates registered medical practitioners.

11. Between 1987 and 2007, SMA promulgated the GOF, which set out recommended ranges of professional fees for an array of services (e.g. consultation services, professional services, operations and anaesthesia services) provided by doctors in private practice in Singapore.²⁰ SMA opted for a range of fees (as opposed to a fixed rate) as the actual fees depended on factors such as the level of expertise, complexity, or time required for the services rendered.²¹ According to SMA, the GOF was a response to public complaints about overcharging by private medical practitioners, and was intended to provide patients with greater transparency on healthcare costs and enable them to make an informed choice on which private medical practitioner to engage.²² It bears highlighting that the GOF was extensive in nature, in that its latest edition in 2006 covered more than a thousand procedures, leaving out only the most esoteric operations.²³ Although SMA took the position that adherence to the GOF was voluntary, it had an objective mechanism that held its members accountable for deviations from the GOF in the form of an Ethics and Complaints Committee, which advised “offending” medical practitioners to provide refunds to their patients.²⁴ SMA informed CCCS that “offending” medical practitioners complied with its advice to provide refunds in all cases.²⁵

12. After a holistic assessment of the evidence, which comprised information furnished by SMA, a market study undertaken by a consortium of consultants and interviews with various relevant stakeholders, CCCS concluded that the GOF infringed section 34 of the Competition Act, and that the net economic benefit exclusion did not apply on the facts.²⁶ In particular, CCCS found that price recommendations, whether mandatory or voluntary,

¹⁸ *Ibid.*

¹⁹ CCS 400/001/09: *Notification for Decision: Singapore Medical Association – Guidelines on Fees* (18 August 2010), www.ccs.gov.sg/public-register-and-consultation/public-consultation-items/singapore-medical-association--guidelines-on-fees (accessed 2 November 2018), at [37].

²⁰ *Ibid.*, at [7].

²¹ *Ibid.*

²² *Ibid.*, at [8].

²³ *Ibid.*, at [12].

²⁴ *Ibid.*, at [66]-[67].

²⁵ *Ibid.*, at [67].

²⁶ *Ibid.*, at [29]-[30].

are generally harmful to competition as they signal to market players what competitors are likely to charge, thereby creating focal points for prices to converge.²⁷ Further, the GOF ranges were based on the GOF Committee's views on what should be charged, as opposed to the actual prices charged by SMA members.²⁸ Given that the SMA is an association of medical practitioners and GOF Committee members are medical practitioners, CCCS found that there was an inherent conflict of interest in this regard, as the GOF Committee members had an incentive to set higher fee ranges.²⁹

13. In the Media Release that accompanied the CCCS decision, CCCS encouraged SMA to work with MOH and the hospitals to improve the delivery of pricing information and help patients make more informed choices.³⁰

14. Subsequently, in January 2018, MOH announced that it had appointed a Fee Benchmarks Advisory Committee to develop an approach for setting reasonable fee benchmarks and recommend appropriate benchmarks for medical procedures and services.³¹ This differs from the GOF as it will be based on current and past transacted data and trends on fees, and will consider the concerns of not only healthcare service providers, but also unions, patients, and payers from the public and private sectors.³² As stated on CCCS's website in respect of MOH's previous move to publish data on total operation fees on its website, CCCS generally supports the publication of information on actual pricing and historical pricing as long as it is done in an objective and unbiased manner.³³ As part of its advocacy efforts in performing its statutory functions, CCCS has provided advice to the Fee Benchmarks Advisory Committee to assist in its design and formulation of the fee benchmarks.

²⁷ *Ibid.*, at [37].

²⁸ *Ibid.*, at [121].

²⁹ *Ibid.*, at [71].

³⁰ Competition and Consumer Commission of Singapore (19 August 2010), *CCS Decides against Singapore Medical Association Guidelines on Fees*, www.cccs.gov.sg/media-and-publications/media-release-ccs-decides-against-singapore-medical-association-sma-guidelines-on-fees (accessed 2 November 2018).

³¹ Ministry of Health (21 January 2018), *MOH Appoints Fee Benchmarks Advisory Committee*, www.moh.gov.sg/news-highlights/details/appoints-fee-benchmarks-advisory-committee (accessed 2 November 2018).

³² *Ibid.*

³³ Competition and Consumer Commission of Singapore (3 September 2014), *MOH Publishes Data on Total Operation Fees for Common Procedures*, www.cccs.gov.sg/media-and-publications/policies-and-positions/moh-publishes-data-on-total-operation-fees-for-common-procedures (accessed 2 November 2018).

3.2. Health Insurance

15. In the area of health insurance, CCCS also plays a key role in effecting pro-competitive changes in the market through its advocacy³⁴ and enforcement work.³⁵ For example, in 2014, the Life Insurance Association of Singapore (“LIA Singapore”) removed restrictions on its Critical Illness (“CI”) insurance plans which had the effect of limiting competition among LIA members, following consultations with CCCS. The LIA Singapore is a not-for-profit trade body of life insurance product providers and life reinsurance providers based in Singapore. By way of background, the LIA Singapore standardised 37 CI definitions in 2003 to provide greater transparency for consumers to easily assess and compare insurance plans offered by different insurance service providers and achieve greater assurance in insurance claim results.³⁶ It was thought that this would reduce the incidence of one insurer paying a claim and another rejecting it due to different definitions of whether the insured person’s condition constituted a severe CI.³⁷ In addition, the LIA Singapore also implemented a maximum insurance coverage cap of 30 CIs for all insurance plans sold by its members, which limited the insurers’ ability to offer more comprehensive and tailored coverage for consumers.³⁸

16. After consulting CCCS, the LIA Singapore revised its framework to remove the cap on the number of CIs that could be covered under its members’ insurance plans.³⁹ As a result of this, any number of medical conditions can be covered under a single CI insurance plan, and insurers were able to compete more aggressively by offering a wider variety of insurance products to meet consumer needs.⁴⁰ Given that the LIA Singapore comprises 23 life insurers and seven life insurers,⁴¹ this was a considerable boon for the state of competition in the insurance industry.

17. CCCS also promoted competition in the market for private life insurance products through its enforcement work, as illustrated in the Financial Advisers case.⁴² In that case,

³⁴ Competition and Consumer Commission of Singapore (3 September 2014), *LIA removes Cap on 30 Critical Illnesses*, www.cccs.gov.sg/media-and-publications/policies-and-positions/lia-removes-cap-on-30-critical-illnesses (accessed 2 November 2018).

³⁵ CCCS 500/003/13: *Infringement of the Section 34 Prohibition in relation to the Distribution of Individual Life Insurance Products in Singapore* (17 March 2016), www.cccs.gov.sg/public-register-and-consultation-items/financial-advisers-penalised-by-ccs (accessed 2 November 2018).

³⁶ Competition and Consumer Commission of Singapore (2018), *Government and Competition: A Toolkit for Government Agencies*, www.cccs.gov.sg/tools-and-resources/education-resources/government-and-competition-a-toolkit-for-government-agencies (accessed 2 November 2018), at 34.

³⁷ *Ibid.*

³⁸ *Ibid.*

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ Life Insurance Association Singapore (2010), www.lia.org.sg (accessed 2 November 2018).

⁴² CCCS 500/003/13: *Infringement of the Section 34 Prohibition in relation to the Distribution of Individual Life Insurance Products in Singapore* (17 March 2016), www.cccs.gov.sg/public-register-and-consultation-items/financial-advisers-penalised-by-ccs (accessed 2 November 2018).

CCCS issued an infringement decision and imposed financial penalties which amounted to \$909,302 on 10 financial advisory companies which engaged in an anti-competitive agreement to pressurise a new player in the market to withdraw its life insurance (including health insurance) product from the market. The new player, iFAST Financial Pte. Ltd. (“iFAST”), had entered the life insurance market with an offer of a 50% commission rebate to policyholders who purchased iFAST’s products through a website, Fundsupermart.com (“FSM offer”). This was an innovative method of competition that differed from the traditional in-person marketing methods used by the market players in the industry, as it utilised modern technology to reach a wider group of consumers. CCCS’s investigations revealed that just two days after the FSM offer was launched on 30 April 2013, the infringing parties met at an Association of Financial Advisers (Singapore) meeting and appointed one of the infringing parties to contact and pressurise iFAST into withdrawing the FSM offer. On 3 May 2013, iFAST succumbed to the pressure and withdrew the FSM offer.

18. At the conclusion of its investigations, CCCS found that the infringing parties had breached section 34 of the Competition Act by pressurising iFAST into withdrawing the FSM offer. CCCS also noted that the withdrawal of the FSM offer had a significant impact on the market due to the significant amount of traffic on the Fundsupermart.com website, and could have resulted in a change in the mode of competition (e.g. by encouraging competition in the form of rebates), and significantly benefitted consumers in the form of cost savings.⁴³ iFAST eventually reintroduced its offer in August 2015, after the issuance of CCCS’s Proposed Infringement Decision.⁴⁴

19. In May 2016, one of the infringing parties, IPP Financial Advisers Pte. Ltd., filed an appeal against the penalties imposed on it by the CCCS. This was dismissed by the Competition Appeal Board on 29 June 2017.⁴⁵ None of the infringing parties appealed against CCCS’s findings on liability.

3.3. Infant Healthcare

20. Apart from its enforcement and advocacy efforts, CCCS also undertakes market inquiries (also known as market studies) to understand the nature of competition in specific markets, with a view to provide recommendations to relevant government agencies, policymakers and stakeholders to improve the functioning of those markets. In 10 May 2017, CCCS published its findings from its market inquiry into the supply of formula milk for babies, infants and young children (collectively “**Formula Milk**”).⁴⁶ This market inquiry touched on the infant healthcare market as Formula Milk is used for child patients

⁴³ *Ibid.*, at [232].

⁴⁴ *Ibid.*, at [237]. Where CCS proposes to make an infringement decision, the affected parties are given the opportunity to make written and oral representations in relation to the finding of liability and imposition of penalties in the Proposed Infringement Decision. They will also be afforded the opportunity to inspect CCCS’s case files. CCCS will consider the matters raised in the representations before deciding whether to issue a final Infringement Decision.

⁴⁵ *IPP Financial Advisers Pte Ltd v Competition Commission of Singapore* [2017] SGCAB 1.

⁴⁶ Competition Commission of Singapore (10 May 2017), *CCS’s Findings from the Market Inquiry into the Supply of Formula Milk*, www.ccs.gov.sg/media-and-publications/media-releases/formula-milk-market-inquiry-findings (accessed 2 November 2018).

in hospital wards and is sold in some retail pharmacies in private hospitals.⁴⁷ The impetus for the market inquiry was the increasing price of Formula Milk in Singapore; statistics obtained by CCCS showed that the average retail price of Formula Milk more than doubled in the nine years before 2017.⁴⁸

21. After consulting selected Formula Milk manufacturers, distributors and retailers, representatives from selected hospitals, and relevant government agencies, CCCS found that the increase in mark-up of wholesale prices over and above manufacturing costs was the main contributor to increases in the retail prices of formula milk. The main driver of this increased mark-up was found to be the heavy investment into marketing and research and development (“R&D”) activities by Formula Milk manufacturers. Further, as a result of strong consumer brand loyalty and a preference for “premium” brands in Singapore, these manufacturers competed by building a premium brand image through aggressive marketing activities in hospitals and reinforced this image by engaging in R&D.

22. In its market inquiry report, CCCS made the following three broad recommendations to lower barriers entry and improve the level of price competition, particularly between manufacturers:

- Educate consumers on the nutritional content of Formula Milk and the nutritional requirements of infants and young children, and to improve consumer awareness of the availability of a variety of Formula Milk product at various price points.
- Encourage price competition within the same brands by reviewing parallel importation rules, while still maintaining food safety and security, as well as between brands through exploring the introduction of private labels.
- Review the sponsorships and payments that formula milk manufacturers provide and their impact on milk rotation programmes in hospitals.

23. CCCS is pleased to report that following its market inquiry, the Government took on board CCCS’s recommendations and coordinated a multi-agency workforce to push through some of these recommendations, with a view to bringing about a more a balanced market for the infant milk sector.⁴⁹

4. Conclusion

24. As stated in the decision concerning the SMA’s GOF, CCCS is cognisant of the fact that market forces may not lead to efficient outcomes in the healthcare market for various reasons, and regulatory intervention may be required to address these problems in

⁴⁷ *Ibid.*, at [121]-[123].

⁴⁸ *Ibid.*, at [3].

⁴⁹ Competition and Consumer Commission of Singapore (9 April 2018), *Speech by Senior Minister of State, Ministry of Trade and Industry and Development, Dr. Koh Poh Koon, at the Official Launch of the Competition and Consumer Commission of Singapore*, www.cccs.gov.sg/media-and-publications-speech-by-sms-koh-at-official-launch-of-cccs (accessed 2 November 2018).

relation to a basic necessity like healthcare.⁵⁰ In this connection, CCCS works closely with MOH and all other relevant stakeholders to ensure that healthcare policy goals are achieved in ways that are least restrictive of competition.

⁵⁰ CCS 400/001/09: *Notification for Decision: Singapore Medical Association – Guidelines on Fees* (18 August 2010), www.ccs.gov.sg/public-register-and-consultation/public-consultation-items/singapore-medical-association--guidelines-on-fees (accessed 2 November 2018), at [19] and [146].