



## REVIEW OF COMPETITION LAW CASES FROM OTHER JURISDICTIONS

### A. Introduction

As a way of deepening the competition knowledge and to entrench international best practice culture in case analysis and eventual decision making, the PPR department will be tracking cases and decisions from different jurisdictions including but not limited to the following: South Africa, Zambia and Malawi (COMESA Competition Commission), United Kingdom, European Union / Commission, Netherlands, Germany, Italy, India, Singapore, Hong Kong, Israel, Japan, Korea, Canada, USA, Mexico, Brazil and Colombia. This task will cover major cases with a focus on the parties, sector, case summary and lessons learnt that can add value to the Authority's competition enforcement initiatives.

### B. Specific cases

Country	Sector / market	Parties	Case Summary	Lesson Learnt
1. India	Online platforms and Hotel	-MakeMyTrip (MMT-Go) -Federation of Hotel & Restaurant Associations of India (FHRAI) -OYO, -FabHotels, -Treebo Hotels,	<ul style="list-style-type: none"> <li>➤ MakeMyTrip (MMT-Go) is one such intermediary digital platform, operating in a Business-to-Consumer (B2C) model that caters to the needs of hotel searching consumers on one hand, and hoteliers and hotel partners, on the other. It also provides services like ticket booking, metasearch, and more. It further provides platform services to both individual hotels and hotels working under an aggregator model such as OYO, FabHotels, Treebo Hotels, and more</li> <li>➤ It is alleged that MMT Go, GoIbibo and OYO have formed a cartel by entering into anticompetitive agreements, and have abused their dominant positions in the market of online intermediation services for booking of</li> </ul>	Digital platforms is an emerging area prone to competition infringement.

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			<p>hotels in India' and market for franchising services for budget hotels in India', respectively.</p> <ul style="list-style-type: none"> <li>➤ FHRAI also alleged that MMT-Go and GoIbibo are indulging in predatory pricing and deep discounting.</li> <li>➤ The Competition Commission of India (CCI) found MMT-Go to be dominant in the relevant market. Being satisfied that there is a prima facie infringement, the CCI ordered a detailed investigation in the matter.</li> <li>➤ According to FabHotels and Treebo Hotels, MMT-Go imposed arbitrary exclusivity conditions and demanded exorbitant commissions from them.</li> <li>➤ Moreover, MMT-Go entered an anticompetitive arrangement with OYO, pursuant to which it delisted FabHotels and Treebo Hotels from its platform.</li> <li>➤ Exclusive arrangement between OYO and MMT-Go foreclosed the market, thus causing them irreparable harm. They stated that being delisted from the MMT-Go platform disables them to reach a large customer base, as MMT-Go is a gatekeeper in the relevant market. They</li> </ul>	

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			<p>further added that there had been a great downfall in their revenue since the delisting. Subsequently, on March 09, 2021, the CCI granted interim relief to FabHotels and Treebo Hotels by directing MMT-Go to relist both hotels on its online portals with immediate effect.</p> <ul style="list-style-type: none"> <li>➤ The CCI found that the impugned “agreement is causing anticompetitive effect by denying access to an important channel of distribution through foreclosure.”</li> </ul>	
2. South Korea	Digital Markets	Google and Apple	<ul style="list-style-type: none"> <li>➤ South Korea became the first country to approve legislation changing Google and Apple Inc.’s policies on how apps on their platforms sell subscriptions, in-game items, and other online content.</li> <li>➤ The law forbids Google and Apple from forcing apps to use their own in-app payment systems, giving developers more options and potentially avoiding service fees of up to 30%.</li> <li>➤ Google had recently attempted to prohibit app developers from giving an in-app link to an external website to purchase digital goods. This practice is known as “outlinking,” and it avoids Google’s fees.</li> </ul>	Digital platforms payment systems are areas where competition concerns can be obscured.

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			<ul style="list-style-type: none"> <li>➤ According to Google, those that provided external links would be unable to update their apps starting this month, and their apps may be removed from the Google Play Store by 1<sup>st</sup> June 2022.</li> <li>➤ The KCC released legal guidance stating that Google’s actions would violate South Korea’s app payment law by forcing apps to utilize a single payment method and making it difficult to provide alternative options.</li> <li>➤ In South Korea, Google and its Android operating system have a substantial market share. According to Counterpoint Research, a digital industry research organization, Samsung Electronics Co., the hometown brand that runs Android, controls 72% of the local smartphone market, compared to Apple’s 21%.</li> </ul>	
3. Singapore	Manufacturing	Japanese ball bearings manufacturers and their Singapore subsidiaries	<ul style="list-style-type: none"> <li>➤ On May 27, 2014, the Competition Commission of Singapore (“CCS”) issued an infringement decision (the “Infringement Decision”) against four Japanese ball bearings manufacturers and their Singapore subsidiaries for contravening Section 34 of the Competition Act by engaging in anticompetitive agreements and unlawful exchange of pricing information for ball and roller bearings sold to customers in Singapore.</li> </ul>	Price information exchange can promote competition infringement.

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			<ul style="list-style-type: none"> <li>➤ Following its investigations, the CCS found that representatives of those four Japanese companies and their Singapore subsidiaries, which were competitors, met regularly in Japan and Singapore from 1980 until 2011. During those meetings, these representatives exchanged commercially sensitive information as well as discussed and agreed on their sales prices for ball bearings sold to their respective customers in Singapore.</li> <li>➤ This is the first time that the CCS has exercised the extra-territorial reach of its powers under the Act.</li> </ul>	
4. Hong Kong	Construction	Fungs E & M Engineering Company, Yee Hing Metal Shop, Accord Construction & Decoration Co., Hing Shing Construction Company, Luen Hop Decoration Engineering Co. Ltd, Dao Kee Construction Company	<ul style="list-style-type: none"> <li>➤ Hong Kong's antitrust watchdog in 2019 took an alleged cartel to a tribunal against six decoration contractors and three men over rigging public housing renovation services.</li> <li>➤ It was the fourth case the Competition Commission had filed at the Competition Tribunal since the antitrust regulations came into effect in December 2015 and two months after it won its first two cases.</li> <li>➤ According to Wednesday's court filing, the commission accused the decoration contractors of coordinating prices when providing renovation services to at least 429 units at Ming</li> </ul>	Bid rigging has become a competition concern across the globe.

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			<p>Tai House and Chi Tai House of On Tai Estate, a public housing estate in Kwun Tong under the Hong Kong Housing Authority, from around June to November in 2017.</p> <ul style="list-style-type: none"> <li>➤ The companies were accused of allocating customers between themselves according to designated units or floors.</li> <li>➤ The regulator noted the prices of standard decoration packages on offer differed marginally for the tenants at the two houses, which had more than 1,500 units in total.</li> <li>➤ Pecuniary penalties were imposed on the firms</li> </ul>	
5. Singapore	Construction/ Maintenance services	CU Water Services Pte. Ltd. ("CU Water"), Crystalene Product (S) Pte. Ltd. ("Crystalene") and Crystal Clear Contractor Pte. Ltd. ("Crystal Clear") (collectively the "Parties"),	<ul style="list-style-type: none"> <li>➤ The Competition and Consumer Commission of Singapore ("CCCS") in December 2020 issued an Infringement Decision ("ID") against three businesses for infringing section 34 of the Competition Act (Cap.50B)</li> <li>➤ The three businesses engaged in bid-rigging conduct relating to tenders called for the provision of maintenance services for swimming pools, spas, fountains and other water features. Affected developments included</li> </ul>	Bid Rigging is an area to be watched by the Authority especially under the auspices of the existing MOU between CAK and PPRA

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			<p>condominiums and hotels in Singapore.</p> <ul style="list-style-type: none"> <li>➤ CCCS finds that the Parties had entered into bilateral agreements and/or concerted practices to bid-rig tenders conducted by privately-owned developments, including but not limited to condominiums and hotels, in Singapore</li> <li>➤ Section 34 of the Act prohibits agreements between undertakings, decisions by associations of undertakings or concerted practices which have as their object or effect the prevention, restriction or distortion of competition within Singapore (the “section 34 prohibition”)</li> <li>➤ Pecuniary penalties were imposed on each of the parties.</li> <li>➤ In determining the penalty amount, CCCS took into consideration the seriousness of the infringement as well as the relevant aggravating and mitigating factors, where applicable. CCCS has also granted a leniency and fast track discount to Crystalene Product (S) Pte. Ltd. and</li> </ul>	

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			Crystal Clear Contractor Pte. Ltd	
6. Singapore	Food	Gold Chic Poultry Supply Pte. Ltd.; Hua Kun Food Industry Pte. Ltd.; Hy-fresh Industries (S) Pte. Ltd.; Kee Song Food Corporation (S) Pte. Ltd. (formerly Kee Song Brothers Poultry Industries Pte. Ltd.); Lee Say Poultry Industrial and its sole-proprietor, Lee Say Group Pte. Ltd.; Hup Heng Poultry Industries Pte. Ltd.; Leong Hup Food	<ul style="list-style-type: none"> <li>➤ The Competition and Consumer Commission of Singapore (“CCCS”) in 2019 issued an Infringement Decision (“ID”) against 13 fresh chicken distributors (“the Parties”) for engaging in anti-competitive agreements to coordinate the amount and timing of price increases, and agreeing not to compete for each other’s customers in the market for the supply of fresh chicken products in Singapore.</li> <li>➤ CCCS’s investigations revealed that the Parties met on numerous occasions between 2000 and 2014</li> <li>➤ Statements by employees of the Parties and documentary evidence revealed that Parties discussed price movements including the quantum and timing of the increases, and implemented these price movements accordingly.</li> <li>➤ CCCS found that the Parties participated in agreements and/or concerted practices with the common objective of distorting the normal movement of prices of fresh chicken products in Singapore, from at least 19 September 2007 to 13 August 2014. In agreeing to not compete, the Parties restricted or eliminated competition, including price competition, in the supply of fresh chicken products in Singapore. Similarly,</li> </ul>	The Authority can enhance surveillance for essential food products to ensure there are anti-competitive practices and if they are, can be nipped in the bud, sooner rather than later.



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		Pte. Ltd. (formerly KSB Distribution Pte. Ltd.) and its holding company, ES Food International Pte. Ltd.; Prestige Fortune (S) Pte. Ltd.; Ng Ai Food Industries Pte. Ltd. (formerly Ng Ai Muslim Poultry Industries Pte. Ltd.); Sinmah Poultry Processing (S) Pte. Ltd.; Toh Thye San Farm; Tong Huat Poultry Processing Factory Pte. Ltd.; and Ban Hong Poultry Pte. Ltd	the discussions relating to prices ensured that price movements of fresh chicken products were coordinated, thereby restricting or eliminating price competition in the supply of fresh chicken products in Singapore	

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7. Israel	Energy/Electricity	Israel Competition Authority, the National Fraud Investigations Unit, Israel Electric Company, various municipalities	<ul style="list-style-type: none"> <li>➤ In view of the evidence gathered in the tree-pruning cartel investigation, three indictments were filed against more than 40 defendants, charging offenses of restrictive arrangement in aggravating circumstances, fraud in aggravating circumstances and as to some of the defendants also money laundering.</li> <li>➤ The charges related to the rigging of bids for 18 contracts of the Israel Electric Company and various municipalities, with an aggregate value of tens of millions of NIS.</li> <li>➤ Most of the bid-rigging took place during 2009-2010.</li> </ul>	<p>Just like the Kenyan case, Bid rigging in electricity pole supply is an area prone to bid rigging. The Authority already concluded the REREC case of bid rigging in electricity poles procurement.</p> <p>Sensitization of REREC staff on competition and procurement laws was done on 11.4.2022 as a way of extinguishing anti-competitive practices in the sector.</p>
8. Israel	Maintenance Services	Mer Telecom and Enviromanager (Yosef Zeidman and Guy Frankel)	<ul style="list-style-type: none"> <li>➤ The District Court of Jerusalem, Honorable Judge Rivka Freidman-Feldman convicted three companies and their CEOs of bid rigging in a tender issued by the Meteorological Service for the maintenance of weather stations</li> <li>➤ Mer Telecom and Enviromanager (Yosef Zeidman and Guy Frankel)—met to coordinate their bids, such that one of them would win the northern region and the other the southern region. This was revealed during the examination of the bid documents after one of</li> </ul>	A case on bid rigging

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			<p>the coordination documents was left in the bid file. The members of the tender committee then notified the Antitrust Authority, who started an investigation and filled an indictment.</p> <ul style="list-style-type: none"> <li>➤ The bids submitted involved millions of shekels and the price quote of Enviromanager following the coordination which was about 200 percent higher than the bid prior to the coordination.</li> </ul>	
9. Japan	Fuel/Aviation Fuel	Mainami Aviation Services Co., Ltd. SGC Saga Aviation Co., Ltd (hereinafter "SGC Saga Aviation")	<ul style="list-style-type: none"> <li>➤ Private monopolization by Mainami Aviation Services Co., Ltd.</li> <li>➤ Regarding the sale of the aviation fuel by "into-plane fueling" at Yao Airport, Mainami Aviation Services Co., Ltd. excluded business activities of its competitor, SGC Saga Aviation Co., Ltd (hereinafter "SGC Saga Aviation"), by having its users not be refueled from SGC Saga Aviation, and thereby caused, contrary to the public interest, a substantial restraint of competition in the field of the said sale.</li> <li>➤ Cease and desist order, surcharge payment order (JPY 6.12 million (approximately USD 59,227))</li> </ul>	Evaluate the use and effectiveness of cease and desist orders to deal with anti-competitive practices.
	Supply of School Uniforms		<ul style="list-style-type: none"> <li>➤ Price-fixing cartel by the uniform distributors in Toyota City, Aichi Prefecture The uniform distributors in Toyota City substantially restrained competition in the field of selling uniforms to six high schools in Toyota City,</li> </ul>	Evaluate the use and effectiveness of cease and desist orders to deal with anti-competitive practices.

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			<p>Aichi Prefecture by agreeing to jointly raise selling prices of the uniforms.</p> <ul style="list-style-type: none"> <li>➤ Cease and desist order given.</li> </ul>	
10. Japan	Goods supply	Amazon Japan	<ul style="list-style-type: none"> <li>➤ Amazon Japan G.K (hereinafter referred to as "Amazon Japan"), was investigated by the JFTC because its activities (i.e. price reduction, request for economic benefits, unreasonable return of goods, etc. to suppliers in a weaker position in the transaction) were suspected to violate the AMA, made an application for commitment approval.</li> <li>➤ The JFTC approved the commitment plan from Amazon Japan as it confirmed the above-mentioned activities had been terminated.</li> <li>➤ The approved commitment plan included the recovering of the suppliers' monetary value, which amounted to over JPY two billion (approximately USD 19.36 million).</li> <li>➤ Case of Abuse of superior bargaining position</li> </ul>	Evaluate the use and effectiveness of commitment plans to ensure compliance with the Act
11. Canada	Construction Case of bid-rigging	CPL Interiors	Construction company CPL Interiors Ltd. was fined \$761,967 after pleading guilty for its role in a criminal bid-rigging conspiracy. The bid-rigging scheme victimized condominium corporations in the Greater Toronto Area.	The case was made possible by CPL Interiors seeking leniency in return for their cooperation with the Bureau's

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			<p>The company admitted to conspiring with several competing businesses to allocate customers and fix bid prices on 31 refurbishment contracts issued by private condominium corporations between 2009 and 2014. The value of the contracts totaled more than \$19 million.</p> <p>Following a Competition Bureau investigation, criminal charges were laid in March 2021 against CPL Interiors as well as three other companies and their owners. Court proceedings are ongoing against the remaining accused.</p> <p>CPL Interiors received leniency in sentencing for its full cooperation throughout the Bureau's investigation and its agreement to testify in any resulting prosecutions.</p>	<p>investigation through its Immunity and Leniency Programs.</p>
12. USA (FTC and DOJ)	Food and Beverages	Teami LLC	<p>The Federal Trade Commission returned more than \$930,000 to more than 20,000 consumers who bought tea that Teami LLC marketed and sold using allegedly deceptive health claims.</p> <p>The FTC sued Teami LLC and its owners in March 2020, charging that the company made bogus health claims and paid for endorsements from well-known social media influencers who did not adequately disclose that they were being paid to promote the defendant's products. Teami LLC claimed without reliable scientific evidence that their Teami 30 Day</p>	<p>Redress mechanism in false misrepresentation Section 55 of the Act.</p>

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			<p>Detox Pack would help consumers lose weight, and that its other teas would fight cancer, clear clogged arteries, decrease migraines, treat and prevent flus, and treat colds.</p>	
<p>13. Netherlands - Authority for Consumers and Markets)</p>	<p>Pharmaceuticals</p>	<p>AbbVie</p>	<p>When pharmaceutical companies market an innovative medicine such as Adalimumab, they use patents to control the use of their innovations. When a patent is in force, only the patent-owner is permitted to manufacture and sell the patented medicine (unless the patent owner grants permission via a patent license). So the biosimilar companies made patent settlement agreements with AbbVie in Europe, which AbbVie would permit biosimilar competitors after 16 October 2018.</p> <p>After the expiry of the agreement, other drug manufacturers have been allowed to produce generic variants of the active ingredient, and to market so-called biosimilars. In order to maintain its position on the market, AbbVie, after the patent expired, offered hospitals discounts. Hospitals could only get a significant discount if all existing patients continued to use Humira, and not switch to a biosimilar. If a hospital did allow some of its patients to switch to a biosimilar, the discount would lapse.</p> <p>Exclusivity and abuse of dominance that they are making hard for other manufacturers to enter the</p>	<p>The Authority to monitor drug prices. Drug manufacturers may use discount schemes to protect their dominant positions and to exclude competitors from the market, their actions will constitute violations of competition rules.</p>



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			<p>market.</p> <p>ACM has come to the conclusion that AbbVie, as former patent owner, sought to make it harder for biosimilar manufacturers to enter the market. ACM terminated the case after Abbvie has agreed that it will not force hospitals to purchase exclusively or to a large extent from them through discounts and rebates</p>	