

THE CCS ISSUES PROPOSED INFRINGEMENT DECISION AGAINST ELECTRICAL AND BUILDING WORKS COMPANIES

1. The Competition Commission of Singapore (CCS) has issued a Proposed Infringement Decision (PID) on 11 March 2010 against 14 electrical and building works companies (**see Appendix**) for infringing section 34 of the Competition Act, which prohibits anticompetitive agreements. In this case, the companies were found to be involved in bid rigging or collusive tendering. This is the second PID issued within the span of three months by the CCS.
2. The CCS' investigation revealed that typically, one of the parties ("requester") would request one or more other cartel members ("supporter") to assist in providing a cover bid to increase the requester's chances of winning the bid for providing electrical or building works for a project. The requester would even prepare the quotation for the supporter. There were also instances where the requestor would inform the supporter his quotation price so that the supporter would quote higher. CCS has uncovered such bids placed by these parties for numerous projects and it appears that the practice of requesting and providing cover bids is prevalent in the electrical and building works market.
3. The PID is a written notice setting out the factual information gathered by the CCS during the course of its investigations, and the reasoning as to why a breach of the Competition Act is suspected to have occurred. Whilst the PID does not represent a formal decision of the CCS, it is highly indicative of the CCS' views at this point in time. It is issued to give the parties involved an opportunity to put forth their arguments to CCS and submit information that they wish CCS to consider. The parties have six weeks from the receipt of the PID to make representations or argue the case set out by CCS.
4. Commenting on this PID, **Lim Chong Kin**, Director and Co-Head of Drew & Napier's Competition Law Practice Group, observes, "This is the second PID relating to bid rigging, the first being the pest busters case in 2008. It is unfortunate that companies have not heeded the CCS' warning to review their practices and stop any collusive tendering behaviours. It is time for companies whose normal course of business involve participating in regular tender activities to take stock of how their sales people are carrying out their business and put in place proper procedures and guidelines to ensure that their behaviours are in compliance with competition law.
5. **Ng Ee Kia**, Director and head of Drew & Napier's Competition Economics Department, adds that, "Despite its effort to educate and remind the industry since 2005 to bring their activities into compliance, such hardcore big rigging activities do not seem to have abated. The CCS may have no choice but to penalise these 14 companies more heavily to send a stronger deterrent message this time round."
6. For more information on the competition law compliance, please refer to Drew & Napier LLC's **Practical Guide to Competition Law Compliance in Singapore**. (Available at http://www.drewnapier.com/publications/Drew&Napier%20Guide%20to%20Competition_Law_Compliance_in_Singapore.pdf)
7. If you wish to discuss how this update may potentially affect you, or simply wish to find out more about competition law compliance, please feel free to contact the Competition Law Practice Group. You may also wish to browse through our publications which are available at <http://www.drewnapier.com/competition-body.htm>.

Appendix

List of Parties Involved:

1. Aldale Electrical Services Pte Ltd
2. Alpha & Omega Engineering Services
3. Arisco Engineering & Maintenance Services Pte Ltd
4. AVL Electrical Engineering Pte Ltd
5. DAE Services
6. E-SP Integrated Services Pte Ltd
7. Etora United Engineering (S) Pte Ltd
8. Huang Soon Electrical Engineering Works
9. Integrated One Construction Pte Ltd
10. MME Services
11. Ronnie Lim Electrical and Plumbing Contractor
12. System Technic Engineering Pte Ltd
13. Toplist Mechanical and Electrical Services
14. Triple H Technology Pte Ltd