

Free Market and Buyers Beware? Where are we today and what is the optimal level of government intervention to protect competition and consumers in Singapore?

The topic of the 2020 Competition and Consumers Commission of Singapore (CCCS) essay competition was “Free Market and Buyers Beware? Where are we today and what is the optimal level of government intervention to protect competition and consumers in Singapore?”.

The winning essays featured analysed the extent and nature to which the government should intervene in markets today to ensure they function well to meet both economic and social objectives. They also explored whether the current competition and consumer protection laws and policies are sufficient to address market failures, while preserving the competitive process needed to promote efficiency and innovation, given rapid technological changes and the rise of digital economy.

Open Category 1st Prize

Mr Goh Kyi Yeung

(Columbia University at the time of the competition)

Abstract:

Competition and consumer protection law as well as policies are part of a range of levers that the Singapore government utilises to ensure efficient economic outcomes. This existing efficiency-as-endgoal architecture continues to ameliorate — but perhaps only partially — the more deleterious effects of anti-competitive behaviour in fast-moving digital markets. Although the kinds of market failures that occur in digital markets are not unfamiliar, they do present novel definitional, detection and monitoring problems. Concurrently, the nature of the digital economy also challenges some of the implicit assumptions that current laws and policies are based off — for instance, that consumers can access critical decision-making information amongst others. Consequently, while the essay finds that an overhaul of the competition and consumer protection framework is unnecessary, it argues that government intervention through targeted amendments aimed at increasing transparency and clarity is not. Six concrete proposals are provided to tackle both global and Singapore-specific issues posed by the digital economy.

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School Category 1st Prize

Mr Lee Chong Dao, Joshua & Mr Khaw Wei Yi, Joseph

(Recently completed National Service at the time of the competition)

Abstract:

The balance between having a free market and government intervention has always been difficult to strike and this challenge has only been heightened by the rise of the digital economy precipitating new markets and market conditions. To help shed light on the current state of Singapore’s competition and consumer protection regime, this paper evaluates the regime’s ability to address market failures surrounding anti-competitive mergers and information asymmetry. Firstly, current laws and policies surrounding anti-competitive mergers have been successful in fairly considering the efficiency gains against losses through the total welfare standard that Singapore adopts. However, the framework used to determine financial penalties are not appropriate for anti-competitive mergers in the digital economy as start-ups tend to prioritise growth over revenue. Secondly, steps have been taken to improve price transparency so as to reduce information asymmetry, though there is still a lack of regulations to adequately protect consumers from abuses of information asymmetry in the peer-to-peer lending industry. Such abuses may proliferate in the digital economy if left unchecked as the growth of fintech broadens access to complex financial and digital products. To address these shortcomings, this paper recommends that (1) the transaction value of mergers be considered in the damage assessment of anti-competitive mergers; (2) transparency be promoted by enhancing regulations mandating disclosure by producers; and (3) regulatory oversight be increased via cross-sectoral collaboration between government agencies.

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Environmental Sustainability: The role of competition and consumer protection laws and policies

The winning essays of the 2022 Competition and Consumers Commission of Singapore (CCCS) essay competition (topic above) featured concrete recommendations for competition laws to encourage environmental sustainability practices in the private sector based on legal and economic frameworks.

Open Category 1st Prize

Mr Tseng Zhi Cheng, Sean Douglas
(Asia-Pacific Centre for Environmental Law)

Abstract:

As the climate change problem worsens, the private sector is increasingly seen as a vital lever for environmental sustainability. Competition law is often seen as an obstacle to much needed business collaboration. It need not be. Through the exemption to the prohibition under s. 34 of the Competition Act, environmental sustainability can be incorporated into the competition law framework. Such exemption provides that agreements would not be prohibited if they contribute to the promotion of technical or economic progress. Environmental economics has progressed enough to allow environmental benefits to be translated into the language of economics and competition law.

The CCCS is thus encouraged to adopt a broader interpretation of “economic progress” to allow the consideration of environmental benefits in its cost-benefit analysis. In setting out a theoretical rubric, the CCCS could act in one of two ways: first, it could act to prevent businesses from agreeing to activities harmful to sustainability. This requires a lighter touch approach. Second, it could take action to support agreements that promote sustainability, which would require a balanced approach. Adopting this framework requires some practical implementation. This includes making climate change a strategic priority and publishing specific guidelines on environmental sustainability agreements. The CCCS could also engage in a dialectic with businesses that could extend to creating a ‘sandbox’ for businesses to experiment with sustainability-linked collaborations. Importantly, it would need to undertake capacity-building in sustainability and environmental economics expertise to credibly account for benefits under its analyses. While challenging, competition law’s role in facilitating desirable business collaboration in environmental sustainability is not only possible but critical.

Scan the QR code to
download the full essay:



School Category 1st Prize

Mr Caius Or Shin Yi
(Tampines Meridian Junior College)

Abstract:

This essay explores the role of competition and consumer protection laws in promoting environmental sustainability.

Sections 1 and 2 establish the context of environmental sustainability and the role of firms, highlighting the growing role of firms in promoting environmental sustainability and the various causes of market failure in the market for sustainable initiatives. As key elements of private initiatives, competition and consumer protection laws play an essential role in driving environmental sustainability. Sources of market failure include demand-side market failure and supply-side market failure. Section 2 also illustrates the impacts and introduces an outline of possible ways to reduce market failure such as collaboration among firms, and further details the environmental benefits of collaboration.

Section 3 examines the role of competition law in driving environmental sustainability. Competition law can promote sustainability by enhancing productive and dynamic efficiency, but it also has the potential to impede sustainable collaborations by firms. This is exacerbated by the legal uncertainty surrounding sustainable collaborations given the lack of explicit guidelines and precedent cases. Environmental benefits should be considered as economic efficiencies when assessing the anticompetitive effects of sustainability agreements given the positive externalities generated. This would be consistent with Singapore’s approach to competition law. These benefits can be measured with established methods of pricing environmental benefits.

Section 4 addresses how consumer protection law can be enhanced to better reduce false or misleading sustainability claims (greenwashing).

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