

立法會
Legislative Council

LC Paper No. CB(1)1976/11-12
(These minutes have been seen
by the Administration)

Ref : CB1/BC/12/09

Bills Committee on Competition Bill

**Minutes of the twenty-eighth meeting held on
Tuesday, 3 January 2012, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Members present : Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon Fred LI Wah-ming, SBS, JP
Dr Hon Margaret NG
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Dr Hon Philip WONG Yu-hong, GBS
Hon Emily LAU Wai-hing, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon LEUNG Ka-lau
Hon WONG Kwok-kin, BBS
Hon Mrs Regina IP LAU Suk-yeet, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Alan LEONG Kah-kit, SC
Hon Tanya CHAN

Members absent : Hon Ronny TONG Ka-wah, SC (Deputy Chairman)
Hon LEE Cheuk-yan
Hon James TO Kun-sun
Hon Miriam LAU Kin-yee, GBS, JP
Hon Vincent FANG Kang, SBS, JP
Hon CHAN Hak-kan
Hon LEUNG Kwok-hung
Hon WONG Yuk-man

Public Officers attending : Agenda item I

Ms Linda LAI Wai-ming, JP
Deputy Secretary for Commerce and Economic
Development (Commerce and Industry)

Mr Raymond WU Wai-man
Principal Assistant Secretary for Commerce &
Economic Development (Commerce & Industry)

Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice

Ms Phyllis POON Hon-ying
Senior Government Counsel
Department of Justice

Mr David Alan GROVER
Senior Government Counsel
Department of Justice

Clerk in attendance : Mr Derek LO
Chief Council Secretary (1)6

Staff in attendance : Mr Timothy TSO
Assistant Legal Adviser 2

Ms Sarah YUEN
Senior Council Secretary (1)6

Action

I Meeting with the Administration

- (LC Paper No. CB(1)643/11-12(02) — List of follow-up actions arising from the discussion at the meeting on 6 December 2011
- LC Paper No. CB(1)725/11-12(01) — List of follow-up actions arising from the discussion at the meeting on 20 December 2011
- LC Paper No. CB(1)320/10-11(02) — Administration's information paper on overview of major components of the Competition Bill (paragraphs 34 to 39 on enforcement)
- LC Paper No. CB(1)389/11-12(02) — Administration's response to CB(1)257/11-12(03) and CB(1)389/11-12(01) (pages 4 and 5 of Appendix D)
- LC Paper No. CB(1)91/11-12(01) — Administration's paper on responses to concerns on the Competition Bill)

The Bills Committee deliberated (Index of proceedings attached at **Appendix**).

Clause-by-clause examination

- (LC Paper No. CB(1)643/11-12(03) — Marked-up copy of major amendments to parts 4 to 6 provided by the Administration
- LC Paper No. CB(3)885/09-10 — The Bill
- LC Paper No. CB(1)320/10-11(04) — Marked-up copy of the Bill prepared by the Legal Service Division
- LC Paper No. CB(1)320/10-11(03) — Assistant Legal Adviser's letter dated 26 October 2010 to the Administration (on clause 79, Part 6 and clause 83)
- LC Paper No. CB(1)1034/10-11(05) — Administration's response to CB(1)320/10-11(03) (paragraphs 11, 13 and 14))

2. The Bills Committee examined clauses 78 to 80 and the new clause 80A of and Schedule 2 to the Bill.

Follow-up actions required of the Administration

Admin.

3. The Bills Committee requested the Administration to provide written responses to the following concerns/requests raised by members –

- (a) In relation to clause 80 on termination of leniency agreement, consider providing for a minimum period in sub-clause (3) for making of representations about a proposed termination, as in clauses 14 and 29 on rescission of decision.
- (b) In relation to the proposed new clause 80A on warning notices, consider making the warning notice a reviewable determination under clause 81 in the light of members' views as follows:
 - Mr Albert HO considered it undesirable that a person wrongfully issued a warning notice would not be able to challenge the notice at the Competition Tribunal (the Tribunal), as provided under clause 81. Nor would there be a mechanism for releasing the person concerned from the notice as provided under clause 61.
 - Dr Margaret NG and the Chairman considered it undesirable to make the warning notice a reviewable determination under clause 81 because the purpose of introducing the warning notice was to provide an informal option to obviate legal actions and simplify matters. If, however, the notice was made a reviewable determination, it might give rise to unnecessary legal actions and defeat the above purpose of introducing the notice. Moreover, the right to challenge the notice might not be necessary considering that there might in fact be no consequence or liability whether the person issued the notice accepted the notice or not.
 - Mr WONG Ting-kwong and Mrs Regina IP considered it necessary to ensure that the Competition Commission (the Commission) would be required to notify the undertaking to which it had wrongfully issued a warning notice that it would not bring proceedings against it in the Tribunal.
- (c) Drafting issues
 - (i) consider amending clause 78 to ensure that the definition of "officer" therein would be consistent with

that in the Companies Bill currently under scrutiny;

- (ii) amend the phrase "賴以支持" in the Chinese text of the proposed new clause 80A(2)(c) to "賴以支持";
- (iii) make reference to clause 73 and consider amending the proposed clause 80A to clearly provide for the extension of the warning period where necessary;
- (iv) consider refining the proposed Committee Stage amendments to clause 91(3) as set out in LC Paper No. CB(1)643/11-12(03) to:
 - clarify how the amount of a pecuniary penalty imposed under clause 91(1) would be calculated, particularly how to determine whether a contravention had "continued for a period of more than one year but not more than 3 years" and in turn whether the amended clause 91(3)(a) or 91(3)(b) should apply; and
 - clarify whether it was the policy intention that the turnovers of both financial years concerned would be taken into account when calculating the pecuniary penalty to be imposed for a contravention that straddled two financial years but had continued for not more than one calendar year;

Schedule 2 - Commitments

- (v) amend section 4 to ensure that the Commission would make use of the latest technology available (in particular the Internet) to publish a commitment or variation of a commitment;
- (vi) amend section 12(2) to achieve consistency with section 7(2);
- (vii) amend the English text of section 14(b) to achieve consistency with its Chinese text; and
- (viii) consider amending the first sentence of the English text of section 15 to achieve consistency with sections 5 and 10.

4. The Chairman reminded members that the next meeting of the Bills Committee would be held on 16 January 2012 from 2:30 pm to 5:30 pm. At members' request, the Chairman agreed to reschedule the meeting to avoid clashing with the meeting of the Panel on Administration of Justice and Legal Services starting at the same time.

II Any other business

5. There being no other business, the meeting ended at 4:15 pm.

Council Business Division 1
Legislative Council Secretariat
24 May 2012

**Proceedings of the twenty-eighth meeting of
the Bills Committee on Competition Bill
on Tuesday, 3 January 2012, at 2:30 pm
in Conference Room 2 of the Legislative Council Complex**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration			
000743 – 001001	Chairman Administration	Opening remarks The Chairman drew members' attention to the definition of "serious anti-competitive conduct" newly added to clause 2 (LC Paper No. CB(1)643/11-12(03)), which had been discussed at the last meeting of the Bills Committee held on 20 December 2011.	
Clause-by-clause examination of the Bill			
001002 – 001927	Chairman Administration Assistant Legal Advisor 2 (ALA2)	<u>Examination of clauses 78 to 80</u> In relation to clause 78, the Chairman asked – (a) whether the definition of "officer" therein was consistent with that in other relevant legislation, such as the Securities and Futures Ordinance (Cap. 571), the Companies Bill currently under scrutiny, etc.; and (b) whether "secretary" therein referred to the company secretary. The Administration advised that – (a) the definition of "officer" in clause 78 had been modeled on that of Cap. 571; and (b) the term "secretary" in clause 78 meant company secretary. ALA2 pointed out that the definition of "officer" in clause 78 was slightly different from that in the Companies Bill. At the Chairman's request, the Administration agreed to consider amending clause 78 to ensure that the two definitions would be consistent.	The Administration to take action as requested in paragraph 3(c)(i)
001928 – 002558	Chairman ALA2 Administration Ms Emily LAU	In relation to clause 79, ALA2 made the following enquiries – (a) the criteria for making a leniency agreement with a person, the degree of co-operation so required, and whether there would be any difference in treatment between a person who was the first one to come forward and the subsequent ones; and (b) whether the clause was deliberately drafted in this way to enable the Competition Commission (the Commission) to exercise the necessary discretion to	

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		<p>make leniency agreements on the merits of individual cases.</p> <p>The Administration confirmed that clause 79 was intended to enable the Commission to make leniency agreements which would facilitate investigation, and explained that–</p> <ul style="list-style-type: none"> (a) in overseas competition jurisdictions, the leniency regime or prosecutorial discretion by the enforcement authorities was often provided administratively rather than through legislation. The purpose of stipulating the relevant arrangements in the Bill, in particular the immunity from penalty so provided, was to provide greater certainty to the parties concerned; (b) the operational details of making leniency agreements would be provided in the relevant regulatory guidelines to be worked out by the Commission; (c) the Commission would decide whether it would make a leniency agreement with a person/undertaking on the basis of the strength and credibility of the information he/she provided; and (d) the first person to come forward to make a leniency agreement with the Commission would be given total immunity from pecuniary penalty. As to subsequent ones, their willingness to co-operate with the Commission might be taken into account, as a mitigation, in the determination of the appropriate level of pecuniary penalties to be imposed upon them by the Competition Tribunal (the Tribunal) in subsequent proceedings. Depending on the facts of the case, the Commission, as the only authority that could apply to the Tribunal for the imposition of pecuniary penalties, might also choose not to bring the case against those persons, thus making them completely immune from such liabilities. <p>At Ms Emily LAU's request for more details on (d) above, the Administration further explained that –</p> <ul style="list-style-type: none"> (a) details on the differences in treatment between the first person to come forward and subsequent ones would be provided in the relevant guidelines; (b) clause 79 only aimed to set out the maximum level of immunity that could be given under a leniency agreement. As to the extent of immunity given to different parties to the agreement, these would be left to the Commission to decide on a case-by-case basis; and (c) the normal practice in overseas competition 	

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		<p>jurisdictions was that, while the first person to come forward would normally be given total immunity from pecuniary penalty, subsequent ones would also be granted certain degree of immunity from pecuniary penalty depending on their degree of co-operation, and the seriousness of their involvement in the contravening act.</p> <p>In response to the Chairman, the Administration confirmed that the policy intent was that leniency agreements should be kept confidential, hence they would not be made public on a register.</p>	
002559 – 002815	Chairman ALA2 Administration Miss Tanya CHAN	<p>ALA2 pointed out that while under clauses 14 and 29, which related to rescission of decision, a minimum period within which representations might be made would be specified, no such minimum period was imposed in clause 80(3) for making of representations about the proposed termination of a leniency agreement.</p> <p>The Administration advised that the above arrangement had been made to provide more flexibility to the Commission and the other parties to the leniency agreement to agree on the terms of the cooperation. In response to Miss Tanya CHAN, the Administration agreed to consider providing for a minimum period in clause 80(3).</p>	The Administration to take action as requested in paragraph 3(a)
002816 – 003903	Chairman Administration Mr Jeffrey LAM	<p><u>Examination of the new clause 80A – warning notices</u></p> <p>Mr Jeffrey LAM stressed the need for clearer guidelines on the issue of warning notice, and enquired about the procedures that would be taken before issuing the notice, whether there would be an appeal mechanism, and whether the warning period was standardized.</p> <p>The Administration advised that –</p> <p>(a) the warning notice had been introduced to address the concerns, particularly from the small and medium enterprises (SMEs), about inadvertent breach of the first conduct rule. The notice would be issued to an undertaking only when the Commission had reasonable cause to believe that the undertaking had contravened the first conduct rule and the agreement concerned did not involve serious anti-competitive conduct;</p> <p>(b) since the Commission would need to conduct investigation beforehand to justify the issue of the warning notice, the undertaking concerned would have the opportunity to make representations to the Commission during the investigation;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) the Administration did not consider it necessary to make the warning notice a reviewable determination under clause 81 because, if an undertaking did not agree with the allegations specified in the notice, it might decide to continue with the contravening conduct and there was no adverse consequence of not complying with the warning notice in itself. In any event, its liabilities would be confined to the contravention which occurred after the warning notice. Should the Commission decide to bring the case before the Tribunal against the contravention after the warning notice, the undertaking would have the chance to defend itself. That said, the Administration was open to members' suggestions in this regard; and</p> <p>(d) appeals against the Tribunal's decisions would be heard by the Court of Appeal, which would decide on the award of costs. As to a review by the Tribunal, it would be the Tribunal which might rule on the fees payable in connection with the review and the relevant arrangements.</p>	
003904 – 004350	Chairman Mrs Regina IP Administration	<p>Mrs Regina IP made the following enquiries -</p> <p>(a) the length of the warning period and whether it could be extended, considering that more time might be required to engage economists to examine whether the conduct concerned had really constituted contravention of the enacted Ordinance; and</p> <p>(b) the party that would bear the costs for engagement of the above professional service.</p> <p>The Administration gave the following response –</p> <p>(a) the warning notice was not a legal procedure but served to put the undertakings concerned on notice of the Commission's concerns over an infringement of first conduct rule and advise the undertakings on the appropriate remedial actions to take within a reasonable period of time. The undertakings might discuss with the Commission on how best to address the competition concerns and if necessary, the warning period might be extended to allow the undertakings adequate time to rectify the misconduct. Hence, it might not be desirable to standardize the warning period in the Bill because the time required might vary with different cases. Clause 80A(3) had also provided that in "determining the warning period, the Commission must have regard to the amount of time which the contravening undertaking is likely to require to cease the contravening</p>	

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		<p>conduct"; and</p> <p>(b) the undertaking concerned did not need to defend itself in response to the warning notice, or engage professional advisers for the purpose. It might either choose to act according to the advice of the Commission, or decide not to comply with the warning notice which in itself did not lead to adverse legal consequence.</p> <p>While assured that the warning period could be extended where necessary, Mrs IP was still concerned about the likely costs entailed by the warning notice.</p>	
004351 – 004844	Chairman Mr CHAN Kam-lam Administration	<p>Mr CHAN Kam-lam indicated agreement with the Administration on the need to provide flexibility by not stipulating the length of the warning period in the Bill.</p> <p>In response to Mr CHAN's enquiries, the Administration explained that –</p> <p>(a) leniency agreements were made between the Commission and the persons/undertakings who had allegedly engaged in serious anti-competitive activities in exchange for their co-operation in providing information to facilitate the Commission's investigation and bringing of enforcement proceedings before the Tribunal in respect of other parties involved in the same contravention. Despite the immunity from pecuniary penalty provided by the leniency agreement, the persons/undertakings who entered into the leniency agreement would still be subject to other orders and remedies imposed by the Tribunal; and</p> <p>(b) as regards the warning notices, they were issued to undertakings which had engaged in non-serious anti-competitive activities to give them the opportunity to rectify the contravention, instead of bringing the case before the Tribunal.</p>	
004845 – 005833	Chairman Mr Albert HO Administration Dr Margaret NG	<p>Mr Albert HO considered it undesirable that a person wrongfully issued a warning notice would not be able to challenge the notice at the Tribunal, as provided under clause 81. Nor would there be a mechanism for releasing the person concerned from the notice as provided under clause 61.</p> <p>The Administration responded that the proposal of not making the issue of warning notice a reviewable determination was due to the non-adversarial nature of the warning notice and in recognition that the undertaking continuing a suspected contravention of the first conduct</p>	

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		<p>rule would have a chance to defend itself before the Tribunal if the Commission decided to bring the case to the court. That said, the Administration would give further consideration to members' views.</p> <p>Noting the above explanation, Mr HO opined that if the warning notice was not a reviewable determination, the Commission might have difficulty in withdrawing the notice if it subsequently found that the contravening act was a hardcore activity that warranted bringing of proceedings in the Tribunal right away. Moreover, some undertakings might consider it necessary to challenge the notice to protect their goodwill.</p> <p>The Administration responded that under the current arrangement, an undertaking wrongfully issued a warning notice could already directly clarify the matter with the Commission without going to the Tribunal. Notwithstanding, the Administration would consider further members' suggestion.</p> <p>Dr Margaret NG considered it undesirable to make the warning notice a reviewable determination under clause 81 because the purpose of introducing the warning notice was to provide an informal option to obviate legal actions and simplify matters. If, however, the notice was made a reviewable determination, judicial review might then be instituted against the relevant decision where necessary. Such a development might give rise to unnecessary legal actions and defeat the above purpose of introducing the notice. Moreover, as the Administration had explained above, the right to challenge the notice might not be necessary.</p>	
005834 – 010005	Chairman Mr WONG Ting-kwong Administration	<p>In response to Mr WONG Ting-kwong, the Administration advised that –</p> <p>(a) the first person who entered a leniency agreement with the Commission would enjoy total immunity from pecuniary penalty; and</p> <p>(b) the warning notice was at present not a reviewable determination under clause 81.</p>	
010006 – 010507	Chairman Mr Jeffrey LAM Administration	<p>In response to Mr Jeffrey LAM, the Administration advised that –</p> <p>(a) arrangements regarding the leniency agreement were similar to those regarding an accomplice-turned prosecution witness;</p> <p>(b) the circumstances under which the Commission could make or terminate a leniency agreement would be set out in the relevant guidelines;</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>(c) the leniency agreement would be made on a case-by-case basis;</p> <p>(d) the Commission might terminate a leniency agreement if it had reasonable grounds to suspect that the information on which it had based its decision to make the agreement was incomplete, false or misleading in a material particular; and</p> <p>(e) the parties who could enter into a leniency agreement with the Commission would be decided on the merits of individual cases and could be either individuals or undertakings.</p>	
010508 – 010958	Chairman Ms Audrey EU Administration	<p>Ms Audrey EU highlighted the proposed Committee Stage amendments (CSAs) to clause 91(3) as set out in LC Paper No. CB(1)643/11-12(03), and enquired how the amount of a pecuniary penalty imposed under clause 91(1) would be calculated, particularly how to determine whether a contravention had "continued for a period of more than one year but not more than 3 years", and in turn whether the amended clause 91(3)(a) or 91(3)(b) should apply.</p> <p>The Administration confirmed that the policy intent was that the turnover of both financial years concerned would be taken into account when calculating the pecuniary penalty to be imposed for a contravention that straddled two financial years but had continued for not more than one calendar year. In response to Ms EU, it agreed to consider refining the above CSAs to clarify the above policy intention.</p>	The Administration to take action as requested in paragraph 3(c)(iv)
010959 - 011146	Chairman ALA2	<p>In response to ALA2, the Administration agreed to –</p> <p>(a) amend the phrase "賴以支持" in the Chinese text of the proposed new clause 80A(2)(c) to "賴以支持"; and</p> <p>(b) make reference to clause 73 and consider amending the proposed clause 80A to clearly provide for the extension of the warning period where necessary.</p>	<p>The Administration to take action as requested in paragraph 3(c)(ii)</p> <p>The Administration to take action as requested in paragraph 3(c)(iii)</p>
011147 – 011901	Chairman Mrs Regina IP Administration	Mrs Regina IP highlighted the costs incurred by the undertaking issued the warning notice from engaging economists or lawyers to defend itself, and indicated disagreement with the Administration that there would not be any consequence or liability whether the undertaking issued the notice accepted it or not. She considered it necessary for the Administration to provide the estimated costs for complying with the enacted Ordinance.	

Time marker	Speaker	Subject(s)	Action required
		<p>The Administration gave the following response –</p> <ul style="list-style-type: none"> (a) the warning notice had been introduced to address the concerns that businesses might unknowingly engage in non-hardcore activities. Since the notice could provide undertakings a chance to rectify their malpractices before enforcement action was taken in accordance with the Commission's advice, there might not be any costs for complying with the warning notice; (b) whether the undertaking accepted the warning notice was irrelevant to the outcomes of any proceedings that might be brought against it subsequently; and (c) even if the Commission subsequently decided to bring proceedings in the Tribunal against the contravening undertaking, the Tribunal would still need to adjudicate depending on the merits of each case. Moreover, any such proceedings might only be brought in respect of the relevant contravening act that continued or repeated after the expiry of the warning period, not the conduct that occurred before the warning period. 	
011902 – 012210	Chairman Mr CHAN Kam-lam Administration	<p>Mr CHAN Kam-lam highlighted the difference in treatment between a person who was the first one to come forward to make a leniency agreement with the Commission and the subsequent ones, and asked how the Commission decided the order of and the immunity respectively enjoyed by the parties that came forward if they did so at the same time.</p> <p>The Administration advised that –</p> <ul style="list-style-type: none"> (a) the Commission would need to determine the appropriate level of immunity on a case-by-case basis. However, according to overseas experience, normally the first one to come forward would be given more or complete immunity from pecuniary penalty because the information it provided would more likely be beneficial for the investigation; and (b) the degree of cooperation of the undertaking concerned in the investigation might be taken into account in the Tribunal's determination of other orders/ penalties against that undertaking. 	
012211 – 012256	Chairman Administration	The Chairman indicated agreement with Dr Margaret NG's view above on the making of the warning notice a reviewable determination under clause 81.	The Administration to take action as requested in paragraph 3(b)

Time marker	Speaker	Subject(s)	Action required
012257 – 012525	Chairman Mrs Regina IP Administration	<p>In response to Mrs Regina IP, the Administration explained that no costs would be incurred to comply with the enacted Ordinance because –</p> <ul style="list-style-type: none"> (a) unlike licensing regime, the Bill would not oblige any undertaking to take particular actions or follow certain procedures to ensure compliance; and (b) the introduction of the de minimis arrangement and the warning notice could already address the business sector's concern about inadvertent contravention of the enacted Ordinance. <p>Mrs IP pointed out that the undertaking concerned might still need to incur costs from seeking legal or professional advice if it did not agree to the warning notice, considering the difficulty in ascertaining whether an act was anti-competitive.</p> <p>The Administration responded that –</p> <ul style="list-style-type: none"> (a) considering that no proceedings would be brought against the alleged contravening undertaking for anti-competitive conduct that occurred before the warning period, the warning notice was relatively lenient to the undertakings concerned; and (b) actions taken by any parties to challenge the implementation of any law would incur costs but such costs should not be regarded as regular compliance costs. 	
012526 – 012920	Chairman Mr WONG Ting-kwong Administration Mrs Regina IP	<p>In response to Mr WONG Ting-kwong on the warning notice, the Administration advised that –</p> <ul style="list-style-type: none"> (a) there was at present no mechanism for reviewing the warning notice but the provision of such a review mechanism would, as requested, be further considered in the light of members' views above; (b) an undertaking subject to the warning notice could make its case to the Commission during the investigation before the notice was issued; (c) there was at present no express provisions on withdrawing the warning notice. If the basis of issuing the warning notice was no longer there, the Commission might simply decide not to take any further actions or bring proceedings against the undertaking concerned; and (d) given the nature of the warning notice, the Commission was not required to notify the undertaking that no proceedings would be brought 	The Administration to take action as

Time marker	Speaker	Subject(s)	Action required
		against it after the warning notice.	requested in paragraph 3(b)
012921 – 013308	Chairman Mrs Regina IP Administration	<p>In response to Mrs Regina IP, the Administration advised that should the undertaking subject to the warning notice choose to ignore the notice, and it was subsequently determined in the relevant proceedings brought in the Tribunal that the act concerned did not constitute an infringement of the enacted Ordinance, the full costs incurred in the proceedings might be awarded in the undertaking's favour as decided by the Tribunal, which was similar to the High Court.</p> <p>Noting the above response, Mrs IP questioned the use of the warning notice, pointing out that to secure recovery of the costs incurred, an undertaking issued with the notice might simply ignore it and defend itself in the Tribunal instead.</p> <p>The Administration responded that the warning notice could help address SMEs' concern about inadvertent contravention of the enacted Ordinance by advising them of a possible contravention of the conduct rule and the appropriate remedial actions to take, so as to provide them with more certainties about the law and their liabilities thus arising.</p>	
013309 – 014759	Chairman Administration ALA2	<p><u>Examination of Schedule 2 - commitments</u></p> <p>The Administration reported that it would amend section 4 to ensure that the Commission would make use of the latest technology available (in particular the Internet) to publish a commitment or variation of a commitment.</p> <p>In response to ALA2, the Administration also agreed to make the following amendments to Schedule 2 –</p> <p>(a) amend section 12(2) to achieve consistency with section 7(2);</p> <p>(b) amend the English text of section 14(b) to achieve consistency with its Chinese text; and</p> <p>(c) consider amending the first sentence of the English text of section 15 to achieve consistency with sections 5 and 10.</p>	<p>The Administration to take action as requested in paragraph 3(c)(v)</p> <p>The Administration to take action as requested in paragraph 3(c)(vi)</p> <p>The Administration to take action as requested in paragraph 3(c)(vii)</p> <p>The Administration to take action as requested in paragraph 3(c)(viii)</p>

Time marker	Speaker	Subject(s)	Action required
014800 – 014807	Chairman Ms Emily LAU Administration	Meeting arrangements	

Council Business Division 1
Legislative Council Secretariat
24 May 2012