

Bills Committee on Competition Bill

List of follow-up actions arising from the discussion at the meeting on 31 January 2012

At the meeting on 31 January 2012, the Administration was requested to take the following actions –

- (1) make all necessary consequential amendments to the Bill following the passage of the Communications Authority Bill;

Clause 94 – Order to pay costs of Commission investigation

- (2) amend the phrase "相等於該項調查的開支**或**附帶開支" in the Chinese text of clause 94(1) to "相等於該項調查的開支**及**附帶開支", so as to more accurately reflect the meaning of its English version "equal to the amount of the costs of **and** incidental to any investigation";

Clause 99 – Disqualification order

- (3) amend clause 99(2)(b) to cover "provisional liquidator", so as to achieve consistency with the definition of "disqualification order" in clause 43(4) of the Companies Bill currently under scrutiny;

Clause 101 – Unfitness to be concerned in management of company

- (4) amend clause 101(2)(b) by adding "reasonable" before the word "steps" in the phrase "took no steps to prevent" contravention of a competition rule;
- (5) consider deleting clause 101(2)(c), and advise whether there is a similar provision in the Companies Ordinance (Cap. 32) and the Companies Bill currently under scrutiny;

Clause 166 – Service of documents other than on Commission

- (6) amend clause 166(1)(d)(ii) to achieve consistency with clauses 166(1)(b)(ii) and 166(1)(c)(ii);

Clause 167 – Certain indemnities of officers, employees or agents void

- (7) amend clause 167(1)(b)(ii) to cover offences under Division 4 of Part 12 (clauses 170 to 174);
- (8) amend the word "required" in clause 167(1)(b)(iii) to "ordered", in recognition that according to clause 91, payment of the pecuniary penalty concerned would be ordered by the Competition Tribunal;
- (9) change the word "secretary" in paragraph (a) of the definition of "officer" under clause 167(3) to "company secretary", so as to achieve consistency with the Companies Bill;

Clause 172 – Employees not to suffer termination etc. for assisting Commission

- (10) amend the phrase "可處第4級罰款或監禁3個月" in the Chinese text of clause 172(3) to "可處第4級罰款及監禁3個月", so as to more accurately reflect the meaning of its English version "liable to a fine at level 4 **and** to imprisonment for 3 months";

Clause 174 – Offences by bodies corporate and partners

- (11) change the word "secretary" in clause 174(1) to "company secretary", so as to achieve consistency with the Companies Bill; and

Schedule 3 – Orders that may be made by Tribunal in relation to contraventions of competition rules

- (12) amend the Chinese text of section (2)(b) so as to more accurately reflect the meaning of its English version "registrable".