

Bills Committee on Competition Bill

List of follow-up actions arising from the discussion at the meeting on 17 April 2012

At the meeting on 17 April 2012, the Administration was requested to take the following actions –

Clause 2

- (1) consider whether it is necessary and appropriate to add a note to supplement the definition of "serious anti-competitive conduct" in clause 2, considering that it would be the only note used in the Bill, and that on various occasions in the past, Members had expressed reservation about the use of notes in bills;

Part 7

- (2) report further Committee Stage amendments to Part 7 as a result of the Bills Committee's discussion on this part at recent meetings;

Clause 118

- (3) respond to the proposal to refine the drafting of clause 118 to avoid giving people the wrong impression that an earlier decision of the Court of First Instance (CFI) or the Competition Tribunal (the Tribunal) would still be binding on the CFI or the Tribunal even though the decision had been overturned on appeal;

Clause 153

- (4) review the appropriateness of clause 153(2)(b), considering that finality provisions had been ruled unconstitutional by the Court of Final Appeal in the past;
- (5) if the Administration should decide to retain the above finality provision, the Administration should consider the view that the phrase "終局命令" in the Chinese text of clause 153(2)(b) in fact meant "終局決定、裁定或命令" as deduced from the first part of the sentence concerned. As such, to enhance clarity without repeating the phrase "決定、裁定或命令", it might be preferable to

amend the phrase "訂明審裁處的決定、裁定或命令屬終局命令的情況下" to "訂明審裁處的決定、裁定或命令屬終局的情況下";

- (6) amend the phrase "該命令是在有關各方同意下作出的上訴" in the Chinese text of clause 153(2)(c) to more accurately reflect the phrase "an order of the Tribunal made with the consent of the parties" in the English text of this clause; and

The proposed new section 28B of Schedule 5

- (7) amend the phrase "a member a committee" in the English text of the proposed new section 28B(7) of Schedule 5 to the Bill to "a member **of** a committee".