

Bills Committee on Competition Bill

**List of follow-up actions arising from the discussion
at the meeting on 28 April 2011**

At the meeting on 28 April 2011, the Administration was requested to provide written responses to the following concerns/requests -

- (a) in relation to the proposed section 28 of Schedule 5 to the Bill, re-consider the composition of committees that might be established by the proposed Competition Commission (the Commission) such that the chairperson and the majority of members of the committees would be members of the Commission;
- (b) consider including a provision in the proposed section 27 of Schedule 5 to the Bill stipulating that the Director of Audit's power to conduct the examination under subsection (1) should not operate to entitle the Director to question the merits of the policy objectives of the Commission;
- (c) in relation to the proposed section 32 of Schedule 5 to the Bill,
 - (i) review the use of the words "rules" and "regulating" in the section to avoid any misunderstanding that the "rules" would be subsidiary legislation to be made under the Bill; and
 - (ii) provide information on the rules to be made by the Commission in respect of conflict of interest (including penalty for non-compliance) and consider setting out the rules regarding conflict of interest as well as disclosure of interests in the Bill;
- (d) in view of the discrepancy between the Chinese and English texts of the proposed section 27(2)(c) of Schedule 5 to the Bill, the Administration agreed to amend the section to achieve consistency;
- (e) advise whether the competition tribunals, if any, of other competition jurisdictions were constituted in the same way as the proposed Competition Tribunal (the Tribunal) under clause 134 and for hearing and determination of applications under clause 144;

- (f) in relation to clause 139 of the Bill, the Administration had agreed to amend subclause (2) in order to tally with other similar provisions in the Bill;
- (g) in relation to clause 140 of the Bill regarding the assessors of the Tribunal, provide details of the remuneration to be paid to an assessor;
- (h) consider taking out the phrase "and whether or not it would otherwise be admissible in civil or criminal proceedings in a court of law" under clause 142(2)(a) and a similar one under clause 146;
- (i) having regard that the Tribunal would be a superior court of record while other tribunals were not, consider whether it was appropriate for the Tribunal to conduct its proceedings with informality;
- (j) in relation to clause 144(3) of the Bill, review whether it was appropriate for the President or the member presiding over a hearing of the Tribunal to have a second or casting vote when there was an equality of votes, and advise whether the same arrangement was adopted by other tribunals in Hong Kong;
- (k) review the drafting of clause 151(2) of the Bill, in particular the phrase "where it is appropriate to give reasons for a decision"; and
- (l) provide information on the impact of the enforcement of competition law, for example in the aspects of manpower and legal costs, economic efficiency and consumer benefits etc. in other competition jurisdictions.