



Hong Kong General Chamber of Commerce  
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The Hon Andrew Leung Kwan-yuen, GBS, JP  
Chairman  
Bills Committee on Competition Bill  
Legislative Council Secretariat  
Legislative Council Building  
8 Jackson Road, Central  
Hong Kong

Dear Andrew,

### Bills Committee Workplan

We write to appeal for a change in the Bills Committee's workplan so that members will discuss the Conduct Rules before the institutional structures for implementing the competition law.

The Hong Kong General Chamber of Commerce sees that it is essential for the Bills Committee to consider amending the workplan for several important reasons:

1. The Conduct Rules form the crux of the Competition Bill for all stakeholders. The form they take will, ultimately, have very considerable impact on the required institutional structures. Discussion of the rules, and what they mean for those who will be most affected by the competition law, should take priority. It is only when the Conduct Rules are finalized can the institutional issues be addressed.
2. As the Chamber explained in its last submission to the Bills Committee, the First Conduct Rule as drafted is broad enough to catch mergers in all sectors. The Government has indicated that it has no current intention to carve out mergers from the First Conduct Rule, according to officials' response to related press enquiries and comments during recent consultation forums. This conflicts with the Government's previously-stated policy that there should be no cross-sector merger control in the law from the outset (see the Government's report to Legco of 16 December 2008, reference CB(1)372/08-09(03) at paragraphs 9 and 10). The question whether the current drafting leaves open the possibility of de facto general merger control, and clarifying the Government's position on merger control, are indisputably among the biggest issues that the Bills Committee should address as a matter of priority. The scope of the Conduct Rules has a direct impact on the institutional arrangements, and should be clarified before the institutional arrangements are addressed.

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3. In those jurisdictions that oversee markets through a general competition law that include merger control, mergers form a substantial percentage of the work of the commission. It is therefore only logical that the Bills Committee discusses the Conduct Rules, as well as their potential application to mergers, before studying the structure and composition of the bodies appointed to administer the law and oversee the market.
4. Discussing the Conduct Rules first also is consistent with the order in which these matters appear in the Bill itself. We would like to suggest that discussions on the institutional structures should take place towards the end, for example, at Component 9 of the workplan. The institutional arrangements need to be considered last as they need to be tailored to fit the law. It should not be the other way around.

The Chamber sincerely hopes that members of the Bills Committee are receptive to our suggestion. We are worried that the cart might have been put before the horse if the institutional structures were to be examined before even confirming what rules the future authorities should enforce. The potential negative consequences for Hong Kong's capital markets if these issues are not considered in the round will, I am sure, be quite apparent.

Thank you very much for your attention on the matter.

Regards,



Alex Fong  
CEO