

香港特別行政區政府  
商務及經濟發展局  
工商及旅遊科



COMMERCE, INDUSTRY AND TOURISM BRANCH  
COMMERCE AND ECONOMIC  
DEVELOPMENT BUREAU  
GOVERNMENT OF THE HONG KONG  
SPECIAL ADMINISTRATIVE REGION

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16 January 2012

Mr Derek Lo  
Clerk to Panel on Economic Development  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road  
Central, Hong Kong

Dear Mr Lo,

**Follow-up to the meeting of the Panel on Economic Development  
on 28 November 2011**

Thank you for your letter of 29 November 2011 advising us on the discussion of the Panel on Economic Development (the Panel) on 28 November 2011 relating to alleged anti-competitive conduct in the retail and wholesale sectors.

***Alleged anti-competitive conduct***

The Administration has kept a close watch on the recent incidents of suspected anti-competitive conduct as reported in the press. It was alleged that suppliers of certain beverage products withheld their supplies to small retailers which sold these products at prices below the recommended price range. There were also suggestions that the suppliers' decision to refuse supplies was made in response to pressure from the large retailers with market power.

Depending on the extent of the restrictions imposed by the suppliers and the market power of these suppliers on the market, the allegations might suggest resale price maintenance, being a form of vertical constraints that would restrict price competition amongst retailers in the downstream market. Also depending on the degree of market power of the large retailers that were alleged to have pressured the suppliers, there might also be a case of abuse of market power by the large retailers, through pressuring the upstream suppliers,

to foreclose their competitors at the retail level. The allegations, if substantiated, run contrary to the competition principles and might constitute contraventions of the conduct rules of the Competition Bill (the Bill), which is now being scrutinised by the Legislative Council (LegCo).

***Current mechanism to review competition concerns***

At present, the Competition Policy Advisory Group (COMPAG) is the dedicated forum of the Government to review competition issues. COMPAG receives and looks into competition-related complaints that raise concerns about restrictive practices in the public and private sectors. Regarding the alleged anti-competitive practices raised by the Panel, the COMPAG Secretariat had received complaint letters in November 2011, requesting COMPAG to launch investigation into the matter. In accordance with the established procedures, the case has been referred to the Commerce and Economic Development Bureau for investigation, the outcome of which will be considered by COMPAG in due course.

Without proper legal backing, COMPAG lacks the necessary statutory powers to investigate into or impose appropriate sanctions for such anti-competitive conduct. There is neither a statutory mechanism for the aggrieved parties to seek damages when a complaint is substantiated. At present, COMPAG could only call upon the undertakings to voluntarily adhere to the competition principles, and cease existing, or refrain from engaging in, anti-competitive conduct.

***Way forward***

The early implementation of the Bill, which provides the future competition authorities with the powers to investigate and sanction the wrongdoings, would be the most effective way to prohibit and tackle anti-competitive conduct existing in the market. To this end, the Administration is working full steam with LegCo on its scrutiny of the Bill, and will strive to have the Bill enacted within the 2011-12 legislative session. Meanwhile, the COMPAG Secretariat will monitor the progress of the investigation into the allegations in question, and welcome any person to render assistance and provide information to facilitate the process.

Yours sincerely,



( Raymond Wu )

*for* Secretary for Commerce and Economic Development

c.c. Hon Jeffrey LAM Kin-fung, GBS, JP,  
Chairman of the Panel on Economic Development

Hon Andrew LEUNG Kwan-yuen, GBS, JP,  
Chairman of the Bills Committee on Competition Bill