

**立法會**  
**Legislative Council**

LC Paper No. CB(1)152/14-15  
(These minutes have been seen  
by the Administration)

Ref : CB1/PL/EDEV/1

**Panel on Economic Development**

**Minutes of meeting**  
**held on Monday, 26 May 2014, at 10:45 am**  
**in Conference Room 1 of the Legislative Council Complex**

- Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)  
Hon Jeffrey LAM Kin-fung, GBS, JP (Deputy Chairman)  
Hon CHAN Kam-lam, SBS, JP  
Hon Andrew LEUNG Kwan-yuen, GBS, JP  
Hon WONG Ting-kwong, SBS, JP  
Hon Ronny TONG Ka-wah, SC  
Dr Hon LAM Tai-fai, SBS, JP  
Dr Hon LEUNG Ka-lau  
Hon Paul TSE Wai-chun, JP  
Hon Albert CHAN Wai-yip  
Hon Steven HO Chun-yin  
Hon Frankie YICK Chi-ming  
Hon YIU Si-wing  
Hon Charles Peter MOK  
Hon CHAN Han-pan  
Hon Kenneth LEUNG  
Hon Dennis KWOK  
Hon Christopher CHEUNG Wah-fung, JP  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon SIN Chung-kai, SBS, JP  
Dr Hon Elizabeth QUAT, JP  
Hon TANG Ka-piu  
Hon CHUNG Kwok-pan
- Members attending** : Hon WU Chi-wai, MH  
Dr Hon Kenneth CHAN Ka-lok  
Hon CHAN Yuen-han, SBS, JP

**Public officers  
attending**

: Agenda Item IV

Mr WONG Kam-sing, JP  
Secretary for the Environment

Ms Christine LOH Kung-wai, JP  
Under Secretary for the Environment

Mr Vincent LIU Ming-kwong, JP  
Deputy Secretary for the Environment

Mr Donald NG Man-kit  
Principal Assistant Secretary for the Environment  
(Electricity Reviews)

Ms Vyora YAU Siu-man  
Principal Assistant Secretary for the Environment  
(Financial Monitoring)

Mr Alan CHOW Shu-lin  
Chief Electrical & Mechanical Engineer  
(Electricity Team)

**Attendance by  
invitation**

: Agenda Item V

Competition Commission

Hon Anna WU Hung-yuk  
Chairperson

Mr KWOK Kwok-chuen  
Member

Mr Thomas CHENG Kin-hon  
Member

Ms Rose WEBB  
Senior Executive Director

Mr Sam HUI Chark-shum  
Deputy Secretary-General

**Clerk in attendance**

: Mr Derek LO  
Chief Council Secretary (1)5

**Staff in attendance** : Mr Daniel SIN  
Senior Council Secretary (1)7

Ms Michelle NIEN  
Legislative Assistant (1)5

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Action

**I Confirmation of minutes of meeting**

(LC Paper No. CB(1)1382/13-14 —Minutes of meeting held on  
27 January 2014)

The minutes of the meeting held on 27 January 2014 were confirmed.

**II Information paper issued since last meeting**

(LC Paper No. CB(1)1352/13-14(01) —Administration's paper on  
tables and graphs showing the  
import and retail prices of  
major oil products from April  
2012 to March 2014

LC Paper No. CB(1)1421/13-14(01) —Administration's response to  
the letter dated 21 March 2014  
from Hon Albert CHAN  
Wai-yip on the purchase of the  
new air traffic management  
system Autotrac 3 by the Civil  
Aviation Department (LC  
Paper No.  
CB(1)1181/13-14(01))

LC Paper No. CB(1)1480/13-14(01) —Letter dated 21 May 2014 from  
Hon James TO Kun-sun to the  
Secretary for Transport and  
Housing regarding the report  
of the internal investigation  
into staff conduct in the Marine  
Department in relation to the  
Lamma Island marine disaster)

2. Members noted the above papers issued since the last regular meeting.

**III Items for discussion at the next meeting**

(LC Paper No. CB(1)1436/13-14(01) —List of outstanding items for  
discussion

LC Paper No. CB(1)1436/13-14(02) —List of follow-up actions)

3. Members agreed that the following items should be discussed at the meeting scheduled for 23 June 2014 –
  - (a) Updates on the Three-Runway System project in the Hong Kong International Airport; and
  - (b) Draft guidelines for the operation of the relevant sections concerning the control on phthalates in the Toys and Children's Products Safety (Additional Safety Standards or Requirements) Regulation.
4. Mr Albert CHAN proposed that the Panel discuss the purchase of the new air traffic management system Autotrac 3 by the Civil Aviation Department ("Autotrac 3") at a meeting before the summer recess.
5. The Chairman suggested that given the public concern on the proposed Three-Runway System project in the Hong Kong International Airport, a public hearing should be held at the meeting scheduled for 14 July 2014 and that the opportunity might also be taken for discussing the item proposed by Mr Albert CHAN at that meeting. Members had no objection to the Chairman's suggestion.
6. Mr Albert CHAN suggested that relevant press reports on Autotrac 3 should be circulated to members for information.

**IV Public consultation on the future fuel mix for electricity generation**

- (LC Paper No. CB(1)1436/13-14(03) —Letter dated 13 May 2014 from Dr Hon Fernando CHEUNG Chiu-hung on public consultation on future fuel mix for electricity generation
- LC Paper No. CB(1)1436/13-14(04) —Administration's response to the letter dated 13 May 2014 from Dr Hon Fernando CHEUNG Chiu-hung
- LC Paper No. CB(1)1117/13-14(01) —Administration's paper on public consultation on future fuel mix for electricity generation
- LC Paper No. CB(1)1154/13-14(01) —Letter dated 20 March 2014 from Dr Hon Kenneth CHAN Ka-lok on public consultation on future fuel mix for electricity generation

LC Paper No. CB(1)1295/13-14(04) —Paper on future fuel mix for electricity generation prepared by the Legislative Council Secretariat (background brief))

7. The Chairman invited members' views on the future fuel mix for electricity generation in the light of the public views expressed during the public hearing session on the subject held on 12 May 2014.

Reliability of electricity import from the Mainland

8. Mr Jeffrey LAM noted that one of the Administration's proposed options was to import electricity from the China Southern Power Grid Co. Limited ("CSG") to meet 30% of the electricity demand ("grid purchase option"). Citing his past experience with unstable electricity supply in his factories in the Mainland, Mr LAM asked if Hong Kong would have priority over other areas in getting electricity from CSG in order that supply for Hong Kong would be reliable and stable. Miss CHAN Yuen-han expressed a similar concern.

9. Deputy Secretary for the Environment ("DSEN") said that CSG served the five Mainland provinces and regions covering cities, towns and villages, each having different requirements for electricity reliability. The Administration considered that in terms of reliability requirement of power supply, it was more appropriate to compare Hong Kong with Macao than with the Mainland, as Macao was a city similar to Hong Kong and had been importing electricity from the Mainland to meet most of its electricity demand.

10. DSEN added that the reliability of supply from CSG in Macao was 99.999%, and that in the Mainland, electricity blackouts were sometimes attributed to problems of local distribution, rather than the main transmission lines. Secretary for the Environment ("SEN") assured members that the Administration accorded first priority to maintaining high reliability of supply.

11. Mr SIN Chung-kai said that compared with the supply reliability of The Hong Kong Electricity Co. Ltd ("HEC") and CLP Power Hong Kong Limited ("CLP") being 99.9998% and 99.9996%, respectively, the seemingly lower supply reliability in Macao of 99.999% might imply a possible power outage for three to four minutes a year, which if occurring during the peak trading hours of the Hong Kong Stock Exchange, would wreak havoc in the local financial market. He asked how the Administration would ensure that the supply reliability under the option of purchasing electricity from CSG would be maintained at the same level being achieved by the two local power companies.

12. DSEN pointed out that in 2012, the power outage in Macao was about 0.6 minutes, which was even better than that in Hong Kong. SEN supplemented that if the grid purchase option was to be adopted, the Administration must satisfy itself that the supply reliability would not be compromised.

13. Mr SIN Chung-kai asked if the Administration would explore with the Mainland authorities to allow the two power companies in Hong Kong to import gas from overseas suppliers, and to use the Mainland reception facilities. DSEN said that there was currently no restriction on the sources from which power companies imported natural gas for electricity generation.

14. Mr Charles MOK commented that SEN's replies to members' questions gave him the impression that the Administration favoured the option of purchasing electricity from CSG. Dr Kenneth CHAN echoed Mr MOK's observation. SEN responded that he had been trying to provide factual information and clarification in response to members' comments and that the Administration remained open to the two fuel mix options.

15. Mr Charles MOK queried whether the grid purchase option could effectively enable the Administration to strike a balance among its policy objectives of safety, reliability, affordability and environmental performance. SEN advised that in addition to the policy objectives mentioned, the impact on the long-term development of the electricity supply market was also a key consideration that should be taken into account in assessing the fuel mix options.

16. Mr Charles MOK asked if the Administration had evaluated the political risks associated with the option of purchasing electricity from CSG. The Chairman said the Administration might not be in a position to give a comment on member's query. Mr Albert CHAN commented that the grid purchase option was clearly politically-motivated to facilitate deeper penetration of Chinese government-backed capital into the local electricity market. He would object to any proposal that would lead to heavier reliance of non-local electricity sources. Mr CHAN commented that importing electricity from CSG would aggravate the problems of inadequate electricity supply and power plant emission in the Mainland.

17. Dr Kenneth CHAN suggested that the Administration should provide more information to the public to substantiate its assertions in the consultation document that the price differential between the two proposed fuel mix options was not substantial and that the supply of electricity by CSG to Hong Kong would be highly reliable.

18. Dr Kenneth CHAN asked the Administration to publish the report of the feasibility study on importing electricity from the Mainland by the Guangdong

Electric Power Design Institute commissioned by the Administration in order to alleviate the public concern over the possible bias in the Institute's assessment on CSG's supply reliability as a result of its close connection with CSG.

19. DSEN said that the above-mentioned report contained commercially sensitive and confidential information which was not intended to be made public. He also explained that the key findings of the study had been duly taken into account and reflected in the public consultation document.

Implications of the grid purchase option on electricity tariff and pollution

20. Mr Christopher CHEUNG said that importing electricity from the Mainland might require considerable infrastructural investment and expressed concern that there would be pressure for a substantial increase in tariff in future. He asked about the tangible benefits that the grid purchase option could deliver.

21. SEN said that the Administration held no fixed position on the two fuel mix options. Either option would involve substantial capital investment in new transmission or generation facilities. If electricity was generated locally, new generation units would have to be built to replace existing units that were scheduled to be retired. On the other hand, the grid purchase option would enable Hong Kong to reduce reliance on natural gas as the main fuel for electricity generation. This might help attenuate the increase of electricity tariff that could be brought by an increase in the cost of natural gas, which had been rising significantly over the past few years. SEN also stressed that the grid purchase option could provide much more room for introducing competition at the generation level while local generation by natural gas would likely increase the stranded costs that consumers might have to bear if we were to open the electricity market.

22. Mr Christopher CHEUNG said that since the existing mechanism to regulate tariff increase would no longer be applicable to the new supplier under the grid purchase option, the Administration would lack control of future increase in tariff. SEN said that a mechanism on the regulation of tariff would have to be further explored if the grid purchase option was to be adopted. He added that the electricity tariff in Macao had remained fairly stable over the past ten years.

23. Miss CHAN Yuen-han expressed concern that under the grid purchase option, the Government would have little control on the choice of fuel for electricity generation, and hence tariff, since CSG would also be exposed to the risk of the rising cost of natural gas if it was shifting to cleaner fuels for generation. However, if CSG continued to use coal as the main fuel, the grid purchase option would end up aggravating pollution in the Mainland. Dr Kenneth CHEN made a similar comment.

24. SEN said that heavy reliance on natural gas under the option of local generation would increase the susceptibility of tariffs to price volatility of natural gas. The Mainland authorities had plan to increase the use of non-fossil fuels in electricity generation. The grid purchase option would allow us to tap into various types of clean fuels not available to Hong Kong, such as hydroelectricity.

25. Mr Frankie YICK commented that the additional output of electricity from CSG for supply to Hong Kong would likely be generated by coal, which would aggravate emission problems in the Mainland. As regards the implications of the grid purchase option on electricity tariff, Mr YICK expressed concern that the Macao experience had in fact shown that the extent of increase in electricity tariff could be quite substantial. As there was a tradeoff between achieving the pledged environmental targets in respect of emission and carbon reduction and rapid increase in electricity tariff, Mr YICK asked if the Administration would phase-in the achievement of the air quality objectives so as to attenuate the pace and level of increase in electricity tariffs.

26. USEN said that the feedback from the public and various stakeholders had indicated that the Administration should implement effective measures to improve air quality. Mr YICK and the Chairman said that the Administration should provide more information on the cost of improving air quality and to seek the public views on the pace of attaining the various air quality objectives.

#### Implication of the grid purchase option on employment

27. Mr TANG Ka-piu said that the employees of the existing power companies had expressed concerns about the possible loss of employment under the grid purchase option. Mr TANG asked the Administration to consult the views of the respective trade union and to address their concerns. USEN said that the Administration was prepared to discuss with the concerned unions as appropriate.

#### Option of local generation of electricity

28. In respect of the option to increase the share of natural gas and reduce the use of coal for local generation, Mr Jeffrey LAM commented that while the cost of natural gas was higher, consumer electrical appliances were becoming more energy efficient, which would help reduce the electricity consumption thereby making this option more affordable.

#### Access to the electricity supply market

29. Mr TANG Ka-piu said that as with the grid purchase option, inviting new

power companies to set up operations in Hong Kong would also achieve the objective of introducing competition in the electricity market. He said that the issue of opening up of the electricity market had been under discussion since 1990s, but little had been achieved so far. USEN said that availability of new supplier was a key to introducing competition. She reckoned that construction of new generation facilities and power grids locally were an arduous and expensive venture and there had not been any expressed interest so far. By contrast, importing electricity from power companies already operating in the Mainland could help introduce market competition.

30. Mr TANG Ka-piu asked if the Administration had invited expression of interest from international power companies to set up operation in Hong Kong and whether new competitors could only distribute their electricity through existing grid network. USEN said that the issue of separation of power grid from electricity generation was a subject requiring thorough discussion in a separate public consultation exercise.

#### Proportion of nuclear power in the fuel mix

31. Mr CHUNG Kwok-pan said that Hong Kong was subject to the radiation risks from nuclear plants in Guangdong regardless of whether or not it was importing electricity from them. Mr CHUNG asked whether the nuclear power from these facilities should be further utilized, and whether the proportion of nuclear power should be increased in the fuel mix of electricity generation.

32. DSEN said that a certain proportion of the electricity to be supplied by CSG under the grid purchase option would be generated using nuclear energy. As compared to the option of importing electricity through grid purchase, importing nuclear power from a dedicated power plant through dedicated transmission line was a less preferred option, having regard to factors such as fuel diversification, reliability of supply, and other factors as set out in the consultation document.

#### Use of coal for electricity generation

33. Mr CHAN Kam-lam commented that apart from meeting environmental objectives, the general public would also put emphasis on the safety and affordability of supply in considering the fuel mix options. He said that the Administration should provide more statistics and data on future electricity tariff to enable the public to make an informed choice. Mr CHAN commented that power companies had implemented effective emission-reduction measures, so that the use of coal would not be as polluting as before. Mr CHAN asked if the Administration would maintain a certain proportion of coal in the fuel mix.

34. USEN said that it had been the Government's policy since 1997 that no new coal-fired generation units should be built. The Government's policy was to ensure that the energy needs of the community were met safely, reliably, efficiently and at reasonable prices, while minimizing the environmental impact of electricity generation. The challenge was to strike a balance among these competing policy objectives, and it was necessary to diversify the fuel mix.

Infrastructural investment for implementing the grid purchase option

35. Mr WU Chi-wai asked whether the Administration, CSG or the two power companies would be responsible for the capital investment in the new transmission or generation facilities involved under the grid purchase option.

36. SEN said that in the case of Macao, CSG provided the required infrastructure up to the boundary of Macao and the Macao authorities were responsible for providing facilities within the territory. In the Hong Kong's situation, there was scope for further discussion in the community as to which party would be responsible for the capital investment on the necessary infrastructure. There would be tariff implications if the two power companies were to install the transmission facilities.

37. Mr WU Chi-wai said that under the grid purchase option, Hong Kong would import electricity from the Mainland power grid to meet 30% of its demand, which implied that the existing two power companies would be giving up a total of 30% of the market to CSG and would have surplus capacity. Mr WU asked whether the Administration would allow open bidding for this portion of the market.

38. DSEN explained that while one of the fuel mix options proposed importing electricity from CSG up to 30% of Hong Kong's electricity needs, the demand for electricity was expected to increase gradually in the coming years and the electricity supply market would continue to grow.

39. SEN and USEN supplemented that the question of opening up the electricity market would be the subject of a separate public consultation exercise. With the gradual retirement of coal-fired generation units, the question of surplus capacity would unlikely be significant.

Development of renewable energy and other energy technologies

40. Dr Elizabeth QUAT queried whether the grid purchase option would limit future choices of the fuel mix and would result in over-reliance on the Mainland for supply of electricity. Dr QUAT also asked whether the Administration would give up development of renewable energy and the related technologies industries.

41. SEN advised that the grid purchase option would help achieve fuel diversification. CSG had a clear direction of adopting more cleaner fuels for electricity generation. As regards renewable energy, the consultation document had outlined the prospects of using more renewable energy, including wind, solar, and in particular waste-to-energy. The continuous development of renewable energy would provide opportunities for related industries and manpower development.

42. SEN supplemented that in considering the fuel mix options, apart from the fundamental policy objectives, the Administration had also provided an assessment of the two options against other key considerations with longer-term implications for Hong Kong's electricity market. These included diversification of fuel to reduce reliance on a particular type of fuel, flexibility in scaling up future supply and the implications for the post-2018 electricity market.

Publicity on fuel mix options

43. Dr LAM Tai-fai opined that the subject of fuel mix for electricity generation might be too technical for the general public to fully understand. He suggested that the Administration should provide more information in laymen terms and outline the implications of various options to facilitate public discussion and feedback.

**V Engagement and consultation plan of the Competition Commission for the regulatory guidelines required under the Competition Ordinance**

(LC Paper No. CB(1)1436/13-14(05) —Administration's paper on establishment of the Competition Commission and the engagement plan for the guidelines required under the Competition Ordinance

LC Paper No. CB(1)1436/13-14(06) —Paper on the engagement and consultation plan of the Competition Commission for the regulatory guidelines required under the Competition Ordinance prepared by the Legislative Council Secretariat (background brief))

44. Chairperson and Senior Executive Director of the Competition Commission briefed members on the engagement and consultation plan of the

Competition Commission for the guidelines required under the Competition Ordinance (Cap. 619).

Exemptions under the Competition Ordinance

45. Mr Ronny TONG noted that certain conduct of the Government or public organizations were exempted under the Competition Ordinance. He said that when a private company collaborated with the Government or a public organization in certain activities which infringed the Competition Ordinance, the private company might be liable to penalty under the Ordinance while the Government or the public organization concerned would be immune. Mr TONG said that the Competition Commission should reflect these implications in the guidelines under preparation.

46. Chairperson, Competition Commission advised that the Commission could take action in respect of commercial activities undertaken by a private company collaborating with the Government or a public organization when the activities were in breach of the Competition Ordinance. She added that the Commission would consult the Legislative Council on the procedure by which certain conducts would be exempted under the Ordinance.

Publicity targeted at small and medium enterprises

47. Mr CHUNG Kwok-pan commented that the guidelines to be developed by the Competition Commission would not be part of the statutes and would not bind the Competition Tribunal. He expressed concern about the possibility that a small and medium enterprise ("SME") might be convicted of an offence under the Competition Ordinance notwithstanding the fact that it had duly complied with the guidelines issued by the Competition Commission.

48. Chairperson, Competition Commission said that the development of guidelines by the Commission was an on-going and interactive process. It might be possible that a review would be conducted three years after the promulgation of the guidelines.

49. Chairperson, Competition Commission was aware that SMEs were concerned that they might inadvertently breach the requirements under the Ordinance. The Commission would step up public education and publicity efforts and disseminate relevant information to facilitate understanding and compliance of the legislation by SMEs. She said that it was the Commission's intention to adopt a lenient approach in the initial stage of enforcing the Competition Ordinance with regard to unintended and non-serious breaches. It would be unlikely that the Commission would take legal action against an SME company unless the SME had contravened the Competition Ordinance and caused

actual harm to the business of another party.

### Collaboration with the Consumer Council

50. Mr TANG Ka-piu asked whether a mechanism had been established for a complaint to be first investigated by the Consumer Council, so that, after having gathered sufficient information, the Consumer Council could refer the complaint to the Competition Commission for further follow-up actions. Chairperson, Competition Commission said that there was close co-operation between the Consumer Council and the Competition Commission, with the Chief Executive of the Consumer Council being a member of the Commission, and the Council providing useful information to the Commission in handling complaints. The investigative power of the Competition Commission was useful in conducting investigation against possible contravention of the law.

51. Mr WONG Ting-kwong noted that the Competition Commission planned to release evaluation tools through the Internet to help business operators to assess whether their practices conformed to the requirements under the Competition Ordinance. Mr WONG relayed the SMEs' concern about whether the evaluation tools were user-friendly, and he asked how the Commission would step up promoting the use of the evaluation tools.

52. Senior Executive Director, Competition Commission said that the tool kit would be designed to be practical and could contain practical examples of problems that SMEs faced daily. The Commission would consult relevant chambers of commerce and SME associations in the development of the tool kit. Chairperson, Competition Commission added that apart from releasing the tool kit through the Internet, the Commission might organize short courses and seminars with trade associations to introduce to SMEs key terms and concepts under the Competition Ordinance.

### Application of the merger rule in the telecommunications sector

53. Mr SIN Chung-kai noted that the application of the merger rule under the Competition Ordinance was limited to mergers relating to undertakings directly or indirectly holding carrier licences issued under the Telecommunications Ordinance (Cap. 106) and that the rule did not apply if the economic efficiencies from the merger outweighed its adverse effect. Mr SIN asked how the Competition Commission measured economic efficiencies and the adverse effect.

54. Senior Executive Director, Competition Commission explained that based on the experience of overseas jurisdictions, economic modeling was used to assess the efficiency that might be achieved from a merger, in terms of whether product cost would decline and what benefits were achieved as a result of the

merger. She added that the Commission would need to scrutinize the evidence available at the time to evaluate the claims made by the parties in a merger.

55. Chairperson, Competition Commission said that under the Competition Ordinance, the Commission shared the monitoring responsibilities with the Office of the Communications Authority in respect of the telecommunication operations. There would be consequential amendments to the Telecommunications Ordinance (Cap. 106) and the scope of the merger rule would be limited to the telecommunications business. A memorandum of understanding would be signed between the Competition Commission and the Communications Authority which would state that the latter would deal with mergers in the telecommunication business.

56. The Chairman directed that the meeting be extended by 15 minutes.

#### Enforcement actions by the Competition Commission

57. Dr Elizabeth QUAT asked how the Competition Commission intended to tackle the problems of public concern such as the monopoly of certain major supermarket chains, tender rigging activities and the price collusion in the supply of petrol fuel. Dr QUAT also asked when the guidelines would be released.

58. Chairperson, Competition Commission said that price increases by major market players might be one of the indicators that would prompt the Commission to investigate into any possible anti-competition practice. The Competition Commission might make reference to the approaches adopted in other jurisdictions in tackling problems such as barrier to market access. She stressed that evidence was needed to enable the Commission to take actions against restrictive practices against competition and informants should come forward as witnesses in the Commission's prosecution actions.

59. As regards the development and release of the guidelines, Chairperson, Competition Commission said that the Commission had been in touch with the business sector and would liaise with the stakeholders more systematically in the coming six months to understand their modes of operation and practices, and to discuss with them about the grey areas that they were concerned about. The concerned stakeholders would be consulted again on the draft guidelines when these were available.

60. Quoting the dominance of a few conglomerates in Tin Shui Wai and Tung Chung as examples, Mr Albert CHAN asked what specific measures the Commission would undertake to deal with monopoly situations. Chairperson, Competition Commission said that the Commission would firstly examine whether there were business practices that had contravened the Competition

Ordinance; secondly, consider whether there were restrictive practices that could be dealt with by reference to certain legal principles established in court cases of other jurisdiction; and thirdly, explore with the Government on introducing measures that would promote competition.

61. Mr Charles MOK commented that the Competition Ordinance granted many exemptions to the Government, but many of the Government's policy measures were not conducive to promoting competition. He asked about the respective roles and responsibilities of the Government and the Competition Commission in the promotion, public education and publicity of the Competition Ordinance. Mr MOK also queried whether the incumbent Chairperson had a conflict of role as being a member of the Executive Council.

62. Chairperson, Competition Commission said that the Competition Commission was an independent statutory organization with a distinct mandate to implement and enforce the Competition Ordinance in a professional manner. As many of the Government's conducts and practices were exempted under the Competition Ordinance, Chairperson, Competition Commission said that it would be up to the Government to introduce the appropriate policy that was consistent with the objective of the Competition Ordinance. The Commission would, however, play an advisory role on competition matters.

63. Chairperson, Competition Commission added that the powers conferred upon the Commission under the Ordinance was quite wide, and would allow the Commission to carry out investigation, summon witnesses, require production of documents and to search for evidence. As regards the query on any role conflict Chairperson, Competition Commission said that she had no personal interest to gain from being the Chairperson of the Commission and an Executive Council member at the same time. She would declare her position when matters involving competition policy was to be discussed at the meetings of the Executive Council and would provide views from a competition perspective.

#### Development of guidelines

64. Mr Frankie YICK asked if the Competition Commission had conducted surveys to assess SMEs' awareness of the Competition Ordinance. Chairperson, Competition Commission advised that the commission had maintained liaison with SMEs to understand their concerns on the various issues under the Ordinance, although no systematic survey had been conducted. Mr YICK then queried how the Commission would conduct consultation without systematic data on SMEs' concerns.

65. Chairperson, Competition Commission explained that the Commission had drawn reference from the issues raised by Members in the Legislative

Councils as well as the petitions submitted by concerned organizations. The Commission noted that SMEs and relevant trade associations had taken the initiative to examine whether any of their trade practices were compatible with the requirements under the Competition Ordinance. The Commission would also focus on conduct that might have potential of breaching the Ordinance, and would consider whether certain non-harmful behavior should be given exemption or dealt with administratively.

66. Dr Fernando CHEUNG commented that the problem of monopoly seemed pervasive. He quoted the case where the deed of mutual covenant of a large residential development had provisions that prohibited certain supermarket chains from operating within the development. Dr CHEUNG asked what role the Commission would play in tackling the issues.

67. Chairperson, Competition Commission advised that the Commission would investigate and deal with anti-competition behavior under the Ordinance but the Commission's jurisdiction was restricted in that it could not impose penalty on its own. Any action against anti-competition practices had to be taken to the Tribunal. In the case where a conduct was exempted under the Competition Ordinance, or where a policy issue was involved, remedies could only be sought through appropriate policy measures initiated by the Government. And the Commission could play an advisory role in these instances.

68. Dr Fernando CHEUNG asked if there was an appeal mechanism if someone disagreed with the decision of the Competition Commission. Chairperson, Competition Commission said that the person might apply to the court for judicial review of the Commission's decision.

#### Resources provision in the Competition Commission

69. Mr Dennis KWOK asked if the Competition Commission had adequate resources to initiate litigations against large conglomerates on competition-related matters and to engage experts to conduct the necessary legal and economic research.

70. Chairperson, Competition Commission said that as the Competition Commission was in its initial stage of operation, there was no allocation of resources specifically for litigation and related legal expenses. The Commission would continue to discuss with the Administration on the longer-term resources requirement related to litigation. She added that the Commission would need to undertake extensive research into legal issues and economic analysis of the local market, and that local universities should also be encouraged to expand their research capability in these areas as well.

71. The Chairman commented that SMEs in general would have reservation on the suggestion that the Government should allocate more resources to the Competition Commission on litigation matters. They were concerned that the Commission might initiate suits against SMEs rather than large conglomerates.

**VI Any other business**

72. There being no other business, the meeting was adjourned at 12:57 pm.

Council Business Division 1  
Legislative Council Secretariat  
29 October 2014