

## **LEGISLATIVE COUNCIL BRIEF**

### **Competition Ordinance (Cap. 619)**

#### **Competition Ordinance (Commencement) (No. 2) Notice 2015**

### **INTRODUCTION**

In exercise of the power under section 1(2) of the Competition Ordinance (“the CO”) (Cap. 619), the Secretary for Commerce and Economic Development (“SCED”) made on 14 July 2015 the Competition Ordinance (Commencement) (No. 2) Notice 2015 (Annex) to fully commence the CO.

### **JUSTIFICATIONS**

2. The CO, enacted on 14 June 2012, provides a legal framework to tackle anti-competitive conduct in all sectors. Section 1(2) of the CO provides that the CO comes into operation on a day to be appointed by the SCED by notice published in the Gazette.

3. It has been the Government’s intention to implement the CO in phases, and that the CO would only be brought into full commencement when all preparatory work carried out by the Government, the Competition Commission (“Commission”) and the Judiciary for the Competition Tribunal (“Tribunal”) is completed. To this end, the Competition Ordinance (Commencement) Notice 2012 was gazetted in November 2012. Provisions relating to the establishment of the Commission, the short title of the CO and commencement, interpretation, and the issue of guidelines by the Commission<sup>1</sup> commenced on 18 January 2013. Provisions relating to the establishment of the Tribunal and part of the provisions relating to its operation commenced on 1 August 2013<sup>2</sup>.

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<sup>1</sup> Provisions in the CO relating to the Commission, the short title, etc. are sections 1, 2, 35, 38, 40 and 59; Parts 8 and 9; Divisions 1 and 2 of Part 12; section 176; Schedule 5; Part 6 of Schedule 7; and Parts 5 and 7 and section 32 of Schedule 8.

<sup>2</sup> Provisions in the CO relating to the Tribunal are Part 10; and Part 3 of Schedule 8.

4. As part of the preparatory work on the part of the Government, the Competition (Application of Provisions) Regulation, the Competition (Disapplication of Provisions) Regulation, the Competition (Turnover) Regulation and the Competition Ordinance (Commencement) Notice 2015 were enacted in April 2015. The Competition Ordinance (Commencement) Notice 2015 commenced the enabling provisions of the Competition (Application of Provisions) Regulation and the Competition (Disapplication of Provisions) Regulation on 17 April 2015<sup>3</sup>. Other provisions in the CO have yet to come into operation.

5. The Commission has completed its drafting and consultation of the Guidelines as required under the CO and will soon publish the finalized Guidelines. The Judiciary tabled four sets of subsidiary legislation related to the procedures and rules of the Tribunal at LegCo for negative vetting on 10 June 2015. The negative vetting period has ended and the Judiciary would commence those procedures and rules on the same date as when the CO is fully commenced.

6. With the above progress, the Government considers that the CO can fully commence in December 2015.

## **THE NOTICE**

7. The Notice at Annex brings the uncommenced provisions of the CO into operation on 14 December 2015.

## **LEGISLATIVE TIMETABLE**

8. The legislative timetable for the Notice is –

Publication in the Gazette	17 July 2015
Tabling at the Legislative Council	14 October 2015

## **PUBLICITY**

9. A press release will be issued on 17 July 2015. A spokesperson

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<sup>3</sup> Provisions in the CO enabling the two Regulations are contained in section 3, 4 and 5 of the CO.

will be available to answer media and public enquiries. In order to further raise awareness of the community and remind the business sector of the requirements of the CO in the coming five months leading up to the full commencement, the Commission will also step up the publicity and education efforts to enhance understanding of the CO by the public and the business community.

## **ENQUIRIES**

10. Enquiries relating to this brief can be addressed to Mr Sam Hui, Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry), at 2810 2858.

**Commerce and Economic Development Bureau**  
**15 July 2015**

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**Competition Ordinance (Commencement) (No. 2)  
Notice 2015**

Under section 1(2) of the Competition Ordinance (Cap. 619), I appoint 14 December 2015 as the day on which the uncommenced provisions of the Ordinance come into operation.

A handwritten signature in black ink, appearing to read "Greg So". The signature is stylized with a large, sweeping loop at the end.

Secretary for Commerce and  
Economic Development

14 July 2015