



**Presentation to the Bills Committee of the
Legislative Council of the Hong Kong SAR
The Telecommunications (Amendment) Bill 2002**

向香港特別行政區
立法局草案專責小組所作之介紹
2002年電訊(修訂)條例

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Overview

概覽

- No justification for industry specific merger legislation
針對行業而定立有關合併及收購的條例並無理據
- The TA's proposed powers are too wide and there is a lack of necessary and proper checks and balances
建議中電訊局長的權力太廣泛, 而且缺乏應有及恰當的監管和制衡
- Mergers in the public benefit must be permitted
附合公眾利益的合併及收購必須獲得批准

There should not be industry specific merger regulation

不應設立針對行業而定之合併及收購條例

- Clear justification for additional regulation does not exist.
沒有充份理據支持加添額外條例
- The Hong Kong telco industry is highly competitive.
香港電訊行業內的競爭已非常激烈
- There is no history or realistic prospect of anti-competitive merger activity in Hong Kong.
香港過往沒有反競爭的合併及收購事例, 而將來實際出現的機會也不大
- Hong Kong would be out of step with the rest of the world in regulating only telco mergers.
立法監管只限電訊業的合併及收購會令香港落後於世界
其他國家

What results in substantial lessening of competition? 是什麼大幅減低競爭?

- The tests should be objective.
準則必須具客觀性
- There should be published guidelines as to what constitutes substantial lessening of competition and the guidelines should be subject to review.
公開令競爭大幅減低的指引, 而這些指引必須接受覆核
- Even if there is substantial lessening of competition, mergers should be allowed if they bring benefits to the people and economy of Hong Kong.
即使大幅減低競爭, 對公眾及經濟有利的合併及收購乃應予批准

Checks and balances against the TA's powers are necessary (I)

對電訊局長的權力必須予以監管及制衡

- Whether changes in control substantially lessen competition should be objectively assessed
控制權的改變是否能大幅減低競爭性必須客觀衡量
- The TA's directions should only be as wide as is strictly necessary and should be clear in their scope and operation.
電訊局長發出的指示的涵蓋必須基於實際需要, 而且指示的適用泛圍與實行方法也必須明確清晰
- The TA's directions should be issued promptly or not at all.
電訊局長發出指示時必須迅速, 否則便不應發出

Checks and balances against the TA's powers are necessary

(II)

對電訊局長的權力必須予以監管及制衡

- Statutory procedures should govern the voluntary pre-approval process
法制程序應支配自願性事前核准
- The TA's cost recovery ability should be controlled
必須控制電訊局長對支出討回的能力
- Appeals should be on a full merits review basis and afford the appellant time to prepare properly
上訴應根據案件的案情論據考慮及容許上訴人有充足時間作適當的準備