

For information
24 November 2003

Legislative Council Panel on Economic Services

GUIDELINES TO MAINTAIN A COMPETITIVE ENVIRONMENT AND DEFINE AND TACKLE ANTI-COMPETITIVE PRACTICES: PRIVATE SECTOR PARTICIPATION

Purpose

This note informs Members of the measures taken by the Administration to involve the private sector in developing and promoting the captioned guidelines which seek to define and tackle anti-competitive practices promulgated by the Competition Policy Advisory Group (COMPAG) in September 2003.

Background

2. Members were informed vide LC Paper No. CB(1)2497/02-03(01) issued in September 2003 that, to supplement the *Statement on Competition Policy* promulgated in May 1998 and encourage all sectors to proactively implement Hong Kong's competition policy, the COMPAG chaired by the Financial Secretary had, in consultation with 30 chambers of commerce, trade and industry organizations, developed a set of guidelines, which was attached to the above mentioned LC paper.

Private sector participation in developing the guidelines

3. The objective of the guidelines is to promote the implementation of Hong Kong's competition policy by the private sector and to ensure the consistent application of the policy across sectors. COMPAG is therefore mindful of the need to involve the private sector, in particular the stakeholders, in developing the guidelines. In this connection, a consultation plan was prepared and 30 chambers of commerce, trade and industry organisations (vide **Annex**) were invited to

give their views and comments on the draft guidelines. The Consumer Council, as a member of COMPAG, also participated in the drafting of the guidelines.

4. 11 of the organisations offered their comments and were overwhelmingly supportive of the guidelines. Most of the views were taken on board and incorporated into the finalized guidelines.

Private sector involvement after promulgating the guidelines

5. Promulgation of the guidelines is the next integral step in the Government's plan to proactively promote Hong Kong's competition policy to and amongst the private sector. In September 2003, the COMPAG Chairman distributed the finalised guidelines to chambers of commerce, trade and industry organizations, and encouraged the business sectors to adhere to the guidelines and also develop for voluntary compliance, codes of conduct pertaining to their respective areas on the basis of the guidelines.

6. We have also distributed the guidelines to international organisations, including the International Monetary Fund and the Asia-Pacific Economic Cooperation, to inform them of the Government's commitment to "competition" promotion and our continued efforts to ensure consistent application of Hong Kong's competition policy across sectors.

7. Since the promulgation of the guidelines, the COMPAG Secretariat has contacted a number of organisations to follow up on their plans and/or strategy in promoting the guidelines among their member companies and developing codes of conduct or self-regulatory mechanisms for their particular sector for voluntary compliance. The organisations have generally been receptive to having an interactive dialogue with the Government on how to maintain and enhance the competitive environment in Hong Kong.

Effectiveness of the guidelines

8. The guidelines, together with the involvement of the private sector in their development and their promulgation, have been an effective means in arousing awareness of and drawing attention to the Government's pro-competition policy.

9. The guidelines are not mandatory provisions. Given the differing and unique circumstances of each sector, we are aware that each sector will need some time to develop their own codes of conduct or self-regulatory mechanism.

10. Hong Kong has an open economy. The Government will take action with regard to competition only when market imperfections or distortions limit market accessibility or market contestability, and impair economic efficiency or free trade, to the detriment of the overall interest of Hong Kong. When such eventuality arises in any particular sector, measures to be taken could, depending on the circumstances, range from codes of practice, administrative means, licensing conditions, contractual provisions, public censure, to provisions against anti-competition in specific legislation.

Members' Advice

11. Members are requested to note the measures taken by the Administration in involving the private sector in developing and following up on the guidelines to give wider effect to the Government's competition policy.

Economic Development and Labour Bureau
November 2003

**Guidelines to maintain a competitive environment
and define and tackle anti-competitive practices**

Consultation list

(A) Chambers of Commerce (13 names)

The American Chamber of Commerce in Hong Kong
The Australian Chamber of Commerce in Hong Kong
The British Chamber of Commerce in Hong Kong
The Canadian Chamber of Commerce in Hong Kong
The Chinese General Chamber of Commerce
The Chinese Manufacturers' Association of Hong Kong
The European Chamber of Commerce in Hong Kong
The Hong Kong General Chamber of Commerce
The Indian Chamber of Commerce Hong Kong
The Hong Kong Japanese Chamber of Commerce & Industry
The Korean Chamber of Commerce in Hong Kong
The Swedish Chamber of Commerce in Hong Kong
The Singapore Chamber of Commerce (Hong Kong)

(B) Trade Commissions and Business Associations (1 name)

The Hong Kong Exporters' Association

(C) Trade and Industry Bodies

(1) General (3 names)

Hong Kong Retail Management Association
Federation of Hong Kong Industries
Hong Kong Association of Freight Forwarding Agents Limited

(2) Financial Services (5 names)

The Hong Kong Association of Banks
Hong Kong Monetary Authority
Securities and Futures Commission
The Stock Exchange of Hong Kong
The Hong Kong Association of Restricted Licence Banks &
Deposit-taking Companies

(3) Shipping (2 names)

The Hong Kong Shippers' Council
Hong Kong Liner Shipping Association

- (4) Telecommunications (1 name)
Office of the Telecommunications Authority
- (5) Broadcasting (2 names)
Broadcasting Authority
Television and Entertainment Licensing Authority
- (6) Residential Property Market (1 name)
Hong Kong Real Estate Agencies Association
- (7) Travel Industry (1 name)
Travel Industry Council of Hong Kong
- (8) Insurance Industry (1 name)
The Hong Kong Federation of Insurers

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