

立法會
Legislative Council

LC Paper No. CB(3) 811/11-12

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Tel : 3919 3306

Date : 25 May 2012

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

Council meeting of 30 May 2012

Competition Bill

Committee stage amendments

Members were informed vide LC Papers Nos. CB(3) 799/11-12 and CB(3) 802/11-12 issued on 23 and 24 May 2012 respectively that the President had given permission for Hon Albert HO, Hon Ronny TONG and the Secretary for Commerce and Economic Development to move their amendments to the above Bill at the Council meeting of 30 May 2012. Members are invited to note that the President has also given permission for the following Members, subject to the Bill receiving a Second Reading, to move their amendments to the Bill, as set out in **Appendices I and II**:

<u>Mover</u>	<u>Appendix</u>
Hon Mrs Regina IP	I
Hon LEUNG Kwok-hung	II

2. As directed by the President, the amendments are attached for Members' consideration.



(Desmond LAM)

for Clerk to the Legislative Council

Encl.

Competition Bill

Committee Stage

Amendments to be moved by the Honourable Mrs Regina IP LAU Suk-ye, GBS, JP

<u>Clause</u>	<u>Amendment Proposed</u>
1(2)	By deleting “This” and substituting “Subject to subsection (3), this”.
1	By adding— <p style="margin-left: 40px;">“(3) Sections 6 and 21 may only come into operation after the guidelines referred to in section 35 have been approved by the Legislative Council under section 35(4A)(a).”.</p>
3(1)	By adding “if the conditions in subsection (4) are fulfilled” after “statutory body”.
3	By deleting subclause (2).
3	By deleting subclause (3) and substituting— <p style="margin-left: 40px;">“(3) In this section, a reference to a statutory body includes an employee or agent of the statutory body, acting in that capacity.”.</p>
3	By adding— <p style="margin-left: 40px;">“(4) The conditions referred to in subsection (1) are—</p> <p style="margin-left: 80px;">(a) the statutory body is not engaging in an</p>

economic activity in direct competition with another undertaking;

- (b) the economic activity of the statutory body is not affecting the economic efficiency of a specific market; and
- (c) the economic activity of the statutory body is directly related to the provision of an essential public service or the implementation of public policy.”.

5 By deleting subclause (1) and substituting—

“(1) The Chief Executive in Council may, on being satisfied that there are exceptional and compelling reasons of public policy, by regulation disapply the provisions referred to in section 3(1) to—

- (a) any person; or
- (b) any person, to the extent that the person is engaged in an activity specified in the regulation.”.

5 By deleting subclause (2).

5 By deleting subclause (3) and substituting—

“(3) In this section, a reference to a person includes an employee or agent of the person, acting in that capacity.”.

35(1) By adding—

“(aa) indicating the manner in which it expects to interpret the expressions “market” (市場), “market power” (市場權勢) and “substantial degree of market power” (相

當程度的市場權勢) used in this Ordinance;”.

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By adding—

“(4A) Without limiting subsection (4)—

- (a) before any guidelines are first issued under this section, the guidelines must be submitted to the Legislative Council for approval; and
- (b) before any amendments to the guidelines are issued under this section, the amendments must be submitted to the Legislative Council for approval.

(4B) The Legislative Council may by resolution amend the whole or any part of the guidelines or amendments submitted under subsection (4A).”.

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By deleting subclause (5) and substituting—

“(5) The Commission must make available copies of all guidelines issued under this section and of all amendments made to them—

- (a) at the offices of the Commission during ordinary business hours;
- (b) through the Internet or a similar electronic network; and
- (c) in any other manner the Commission considers appropriate.

(6) A person does not incur any civil or criminal liability only because the person has contravened any guidelines issued under this section or any amendments made to them.

(7) If, in any legal proceedings, the Tribunal or any other court is satisfied that a guideline is relevant to determining a matter that is in issue—

- (a) the guideline is admissible in evidence in the proceedings; and
- (b) proof that a person contravened or did not contravene the guideline may be relied on by any party to the proceedings as tending to establish or negate the matter.

(8) Guidelines issued under this section and all amendments made to them are not subsidiary legislation.”.

Competition Bill

Committee Stage

Amendments to be moved by the Honourable LEUNG Kwok-hung

<u>Clause</u>	<u>Amendment Proposed</u>
129	By adding “, in accordance with the objective of enhancing economic efficiency and thus the benefit of consumers through promoting sustainable competition,” after “The Commission”.
Schedule 5, section 2	By adding — “(1A) Of the members appointed under subsection (1) — (a) at least one must have expertise or experience in small and medium enterprises; and (b) at least one must have expertise or experience in consumer welfare.”.