

Brief for the Legislative Council
Competition Ordinance (Cap. 619)
Competition Ordinance (Commencement) Notice 2012

Introduction

We introduced the Competition Bill (the Bill) into the Legislative Council (LegCo) on 14 July 2010. A Bills Committee was formed to examine the Bill. The Bill was passed by LegCo on 14 June 2012. Section 1(2) of the Competition Ordinance (the Ordinance) provides that the Ordinance comes into operation on a day to be appointed by the Secretary for Commerce and Economic Development (SCED) by notice published in the Gazette.

Phased Implementation Arrangement

2. During the Bills Committee's scrutiny of the Bill and at the resumption of the second reading debate of the Bill, we have indicated that we will implement the legislation in phases so that the public and the business sector could familiarise themselves with the new legal requirements during the transitional period and make necessary adjustments, and that the Ordinance will only come into full operation when the preparatory work is completed. Members have raised no objection to the proposed phased implementation arrangement.

3. We will first commence the provisions relating to the institutional arrangements in order to set up the Competition Commission (Commission) and the Competition Tribunal (Tribunal). Provisions related to the Commission will come into operation on 18 January 2013. Appointments of a Chairperson and members to the Commission will then be made and the Commission will proceed with the recruitment of its Chief Executive Officer and the executive arm. During the transitional period, the Commission will also prepare regulatory guidelines and carry out consultation as required under the Ordinance as well as conduct publicity programmes to promote public understanding of the Ordinance.

4. Provisions relating to the Tribunal will come into operation on 1 August 2013. This is to cater for the lead time needed to seek approval to create the necessary additional judicial posts for the Tribunal and for the appointment process of the President and Deputy President of the Tribunal. During the transitional period, the Judiciary will also prepare subsidiary legislation relating to the Tribunal proceedings including procedural rules, and make other necessary arrangements to pave the way for the full operation of the Tribunal.

5. When the preparation work is completed, we will commence the rest of the Ordinance, including the prohibitions and penalty provisions, and put the Ordinance into full operation. Taking account of overseas experience and depending on the progress of the preparatory work of the Commission and the Tribunal, we expect that the process would take at least a year.

The Notice

Annex 6. The Competition Ordinance (Commencement) Notice 2012 (the Notice) at **Annex** brings those provisions in relation to the short title, commencement of the Ordinance, interpretation, guidelines to be issued by the Commission, and other provisions related to the establishment and operation of the Commission into operation on 18 January 2013, and those provisions in relation to the Tribunal into operation on 1 August 2013. The Notice will be published in the Gazette on 23 November 2012.

Enquiries

7. Any enquiries on this brief can be addressed to Mr Raymond Wu, Principal Assistant Secretary (Commerce and Industry) 2 (telephone: 2810 2858, facsimile: 2918 1273).

Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
21 November 2012

Competition Ordinance (Commencement) Notice 2012

Under section 1(2) of the Competition Ordinance (14 of 2012), I appoint—

- (a) 18 January 2013 as the day on which the following provisions of the Ordinance come into operation—
 - (i) sections 1, 2, 35, 38, 40 and 59;
 - (ii) Parts 8 and 9;
 - (iii) Divisions 1 and 2 of Part 12;
 - (iv) section 176;
 - (v) Schedule 5;
 - (vi) Part 6 of Schedule 7;
 - (vii) Parts 5 and 7 and section 32 of Schedule 8;
- (b) 1 August 2013 as the day on which the following provisions of the Ordinance come into operation—
 - (i) Part 10;
 - (ii) Part 3 of Schedule 8.



Secretary for Commerce and
Economic Development