

香港特別行政區政府
商務及經濟發展局
工商及旅遊科



香港添馬添美道二號
政府總部西翼二十三樓

COMMERCE, INDUSTRY AND TOURISM BRANCH
COMMERCE AND ECONOMIC
DEVELOPMENT BUREAU
GOVERNMENT OF THE HONG KONG
SPECIAL ADMINISTRATIVE REGION

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27 March 2015

Ms Mary SO
Clerk to Subcommittee
Subcommittee to Study the Proposed
Subsidiary Legislation on the Procedures to be
Adopted by the Competition Tribunal
Legislative Council

Dear Ms So,

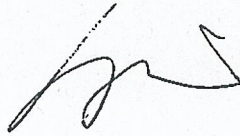
**Subcommittee to Study the Proposed Subsidiary Legislation on the
Procedures to be Adopted by the Competition Tribunal**

Thank you for the questions set out in your letter of 19 March 2015. We understand that the Competition Commission will reply to you separately on the question addressed to it.

Established under the Competition Ordinance (“CO”), the Competition Tribunal (“Tribunal”) has primary jurisdiction over all competition matters, including private follow-on actions. Section 110(2) of the CO provides that private follow-on action claim may only be made in proceedings brought in the Tribunal, whether or not the cause of action is solely the defendant’s contravention, or involvement in a contravention, of a conduct rule. Sections 113 to 116 provide for the transfer of proceedings between the Court of First Instance and the Tribunal under specified circumstances. There is no provision under the CO that allows private follow-on action under the CO to be made in the Small Claims Tribunal, regardless of the amount of claim. Section 144 of the CO however provides that the Tribunal is to conduct its proceedings with as much informality as is consistent with attaining justice.

The consideration given to the above arrangement is that, since competition law is a new and difficult area of law, having a specialised court in adjudicating competition matters would help accumulate judicial expertise in this specific area of law. The Tribunal is set up at the level of a superior court of record such that judicial officers of considerable experiences in dealing with complex commercial cases will be tasked to handle competition cases.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Sam Hui', written in a cursive style.

(Sam Hui)

for Secretary for Commerce and Economic Development



立法會
LEGISLATIVE COUNCIL

(By fax: 2918 1273)

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19 March 2015

Mr Gregory SO Kam-leung, GBS, JP
Secretary for Commerce and Economic Development
Commerce and Economic Development Bureau
23/F, West Wing, Central Government Offices
2 Tim Mei Avenue
Tamar
Hong Kong
(Attn: Mr Sam HUI)

Dear Mr HUI,

**Subcommittee to Study the Proposed Subsidiary Legislation on the
Procedures to be Adopted by the Competition Tribunal**

On behalf of Hon Dennis KWOK, Chairman of the Subcommittee, I write to request the Commerce and Economic Development Bureau ("CEDB") to provide responses in writing to the following issues raised by members at the meeting held on 17 March 2015:

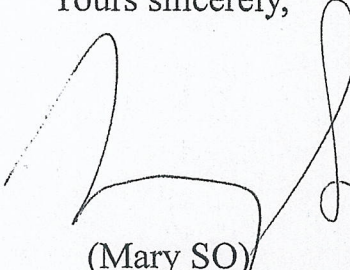
- (a) whether private follow-on actions under the Competition Ordinance (Cap. 619) ("CO") could be filed in the Small Claims Tribunal if the amount of claims was small, say, \$50,000 or less; if not, why not; and
- (b) whether the Competition Commission would provide legal assistance to claimants under the CO, whose reliefs sought were against the same defendant/respondent, to file a collective claim in the Competition Tribunal so as to reduce their legal costs; if not, why not.

I should be grateful for your replies to the above (in both Chinese and English) **on or before 27 March 2015**. Please note that unless you advise otherwise, the responses will be distributed to the media and the public, and made available on the Legislative Council ("LegCo") website on the Internet.

I also write to invite representatives of CEDB to a meeting of the Subcommittee scheduled for **Thursday, 9 April 2015, at 10:45 am in Conference Room 3 of the LegCo Complex**. The agenda for the meeting is attached. To facilitate meeting arrangements, please let me have the names and post titles of your representatives for the above meeting **on or before 27 March 2015**.

On arrival at the LegCo Complex on the day of meeting, the representatives are requested to proceed to Members' Entrance 1 (Council Block facing the LegCo Square) or Members' Entrance 2 (Office Block on Tim Mei Avenue) before proceeding to Waiting Room 214 on the second floor of the LegCo Complex. The representatives are also requested to wear the personal admission pass issued by the LegCo Secretariat prominently while inside the LegCo Complex. For other public officers who will be accompanying you to attend the meeting, please advise them to obtain temporary admission passes at one of the entrances if they do not have personal admission passes issued by the LegCo Secretariat. They are requested to wear the passes and return them to the security staff at the exit before leaving the LegCo Complex.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Mary SO', written in a cursive style. The signature is positioned above the printed name and title.

(Mary SO)
Clerk to Subcommittee

Encl.