

L.N. 155 of 2015

Competition (Fees) Regulation

(Made by the Chief Executive under section 164 of the Competition Ordinance (Cap. 619) after consultation with the Executive Council)

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on the day appointed for the commencement of Part 11 of the Competition Ordinance (Cap. 619).

2. Interpretation

(1) In this Regulation—

specified amount (指明款額), in relation to a specified application, means the amount specified in column 3 of the Schedule opposite that application;

specified application (指明申請) means an application described in column 2 of the Schedule.

(2) In this Regulation, a reference to the Commission does not include the Communications Authority.

Part 2

Fees Payable for Specified Applications

3. Fee payable for specified application to Commission

- (1) For every specified application made to the Commission, the applicant must pay a fee of the specified amount to the Commission when the applicant makes the application.
- (2) The Commission is to refund the fee paid for the specified application if the Commission declines to consider the application.
- (3) The Commission may, in its discretion, reduce, waive or refund, in whole or in part, a fee payable or paid to the Commission in a particular case.
- (4) This section has effect subject to section 4.

4. Paid fee refundable if specified application transferred to Communications Authority

If a specified application made to the Commission is transferred to the Communications Authority under section 160 of the Ordinance—

- (a) the Commission is to refund to the applicant any fee paid under section 3 for the application; and
- (b) a fee is payable for the application in accordance with section 5 as if the application were made to the Communications Authority.

5. Fee payable for specified application to Communications Authority

- (1) For every specified application made to the Communications Authority for it to perform a function falling within section 159 of the Ordinance, the applicant must pay a fee to the Communications Authority.
- (2) The amount of the fee—
 - (a) is equal to the costs and expenses incurred by the Communications Authority in making a decision on the specified application or in relation to the processing of the application; but
 - (b) must not exceed the specified amount.
- (3) On receipt of a notice given by the Communications Authority of the amount of the fee payable, the applicant must pay the fee to the Communications Authority by the time specified in the notice.
- (4) No fee is payable to the Communications Authority for a specified application if the Communications Authority declines to consider the application.
- (5) This section has effect subject to section 6.

6. Fee payable if specified application transferred to Commission

If a specified application made to the Communications Authority is transferred to the Commission under section 160 of the Ordinance—

- (a) the fee referred to in section 3 is payable to the Commission by the time specified in a notice given by the Commission to the applicant after the transfer; and

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- (b) the fee referred to in section 5 is not payable for the application.
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Schedule

[s. 2]

**Specified Amount for Specified Application Made to
Commission or Communications Authority**

Column 1	Column 2	Column 3
Item	Description	Amount
1.	Application under section 9(1)(a) of the Ordinance for a decision as to whether an agreement is excluded from the application of the first conduct rule by or as a result of section 1 of Schedule 1 to the Ordinance.	\$100,000
2.	<p>Application under section 9(1) of the Ordinance for a decision as to one of the following—</p> <p>(a) whether an agreement is excluded from the application of the first conduct rule by or as a result of Schedule 1 to the Ordinance (except section 1 of that Schedule);</p> <p>(b) whether an agreement is exempt from the application of the first conduct rule by virtue of a block exemption order issued under section 15 of the Ordinance;</p>	\$50,000

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Column 1	Column 2	Column 3
Item	Description	Amount
	<ul style="list-style-type: none"> (c) whether an agreement is exempt from the application of the first conduct rule by virtue of an order made under section 31 or 32 of the Ordinance; (d) whether an agreement is excluded from the application of Part 2 of the Ordinance by virtue of section 3 or 4 of the Ordinance. 	
3.	Application under section 15 of the Ordinance for the issue of a block exemption order in respect of a particular category of agreement.	\$500,000
4.	Application under section 24 of the Ordinance for a decision as to one of the following— <ul style="list-style-type: none"> (a) whether certain conduct is excluded from the application of the second conduct rule by or as a result of Schedule 1 to the Ordinance; (b) whether certain conduct is exempt from the application of the second conduct rule by virtue of an order made under section 31 or 32 of the Ordinance; 	\$50,000

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Column 1	Column 2	Column 3
Item	Description	Amount
	(c) whether certain conduct is excluded from the application of Part 2 of the Ordinance by virtue of section 3 or 4 of the Ordinance.	
5.	Application under section 11 of Schedule 7 to the Ordinance for a decision as to one of the following— (a) whether a merger is, or a proposed merger would (if completed) be, excluded from the application of the merger rule by or as a result of section 8 of that Schedule; (b) whether a merger is, or a proposed merger would (if completed) be, excluded from the application of that Schedule by virtue of section 3 or 4 of the Ordinance.	\$500,000

C. Y. LEUNG
Chief Executive

14 July 2015

Explanatory Note

This Regulation is made under section 164 of the Competition Ordinance (Cap. 619) (*Ordinance*) for prescribing the amount of the fees payable for applications to the Competition Commission (*Commission*) or the Communications Authority when the latter performs the functions of the Commission under section 159 of the Ordinance.

2. The applications are—
 - (a) an application for a decision—
 - (i) about the application of the first or second conduct rule or Part 2 of the Ordinance; or
 - (ii) about the application of the merger rule or Schedule 7 to the Ordinance; and
 - (b) an application for the issue of a block exemption order.