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20 July 2020

Panel on Economic Development of the Legislative Council
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Attn: Ms Shirley CHAN)
(Fax No.: 2840 0269)

Dear Ms Chan,

Panel on Economic Development
Letter from Hon Wu Chi-wai dated 28 April 2020

Thank you for your e-mail dated 4 May 2020, relaying Hon Wu's questions and comments. I have been authorised to reply as follows.

Hong Kong being a free market economy, unless the Government has very strong justifications, it should not interfere with commercial operations, nor should it regulate business models and the pricing of products. At present, there are six oil companies operating about 180 petrol filling stations (PFSs) in Hong Kong. The number of oil companies in Hong Kong is comparable to those in neighbouring Singapore and Seoul, and larger than those in Taipei and Tokyo. Although there are comments suggesting that the small number of market players and their often identical retail prices are signs of an oligopolistic market, this is not the same as there being collusive pricing or other anti-competitive conduct among the oil companies.

The Competition Commission (the Commission) published a study report on Hong Kong's auto-fuel market in May 2017. The study looked into petrol prices and costs from 2012 to 2015. The report pointed out that while oil prices were higher in Hong Kong than anywhere else and

always the same across companies, these two features could not on their own be taken as hard evidence of anti-competitive conduct.

In theory, market competition can result in almost homogeneous products (e.g. oil product) having similar prices. As regards the fact that Hong Kong's auto-fuel prices are higher than those of neighbouring places, there are a number of factors: in addition to fuel duty, capital investments and operating costs, higher costs are also the result of Hong Kong having a small market and no oil refinery, and having to import all its oil products from other places. With the increasing popularity of electric vehicles, the sales volume of auto-fuels declines, which also puts pressure on the unit costs. However, because local oil companies generally offer various kinds of discounts and concessions to attract their customers, the actual price paid by customers is lower than the retail price, and is also not the same, suggesting that competition exists in the market. According to our understanding, the walk-in discount and the membership card discount offered by some oil companies have increased from \$0.9 per litre in 2018 to a maximum of \$3.0 per litre at present; the number of days on which the special discount is offered has also increased from one day a week to two to four days a week. Oil companies pointed out that, the increase in operating expenditure (including the said discounts) is the main reason of a widening spread between import prices and retail prices; and also because of that, the public may have the perception that there is "rockets and feathers" pricing or "more going up, less coming down" in oil prices. We agree that if oil companies can provide more costs and sales data on a voluntary basis to improve the transparency of market information, it would help clear the doubts of consumers.

The retail prices of local auto-fuels are determined by the market itself according to free market economy principles; the Government should not set a so-called appropriate retail price or interfere in the market operations of the auto-fuel industry. The role of the Government is to make its best effort to ensure a stable fuel supply, improve the transparency of the prices of auto-fuel products, and to remove barriers to market entry thereby promoting competition. This guiding principle has fully balanced the objectives of various policies including environmental protection, transport, tax, land use and economic development policies, and has also taken into account the level of public acceptance.

In the past, in order to enhance competition in Hong Kong's auto-fuel market, the Government has adopted a series of measures to encourage and facilitate new entrants entering into the market, such as

removing the requirement for bidders of PFS sites to hold import licence or supply contract; re-tendering all existing PFS sites upon expiry of their leases instead of renewing the leases of the existing operators; and introducing the “super-bid” tendering arrangement to facilitate potential new entrants in obtaining a critical mass of PFS sites for economy of scale. Since the introduction of the “super-bid” arrangements, two new operators have successfully entered the market. The share of the three incumbent major operators in terms of the number of PFS has dropped from over 90% to less than 70%, which has enhanced competition and operation in the auto-fuel market. Moreover, in order to enhance the transparency of auto-fuel prices, the Environment Bureau publishes on its website the local auto-fuel retail prices, import prices and the trend movements of international oil prices on a weekly basis; and has also commissioned the Consumer Council to post onto its website on a weekly basis the local auto-fuel retail prices and information on various types of discount offers, and to launch the “Oil Price Calculator” and smart phone application, to help consumers make informed choices.

We appreciate Hon Wu’s various suggestions, including building public oil storage facilities, allowing more flexible sales models, relaxing the non-fuel retail business in PFSs, and allowing individual fuel trucks to provide retail services in safe conditions. Although the limited terminal storage facilities in Hong Kong may not help new competitors enter the market, constructing these facilities will require a substantial amount of land, so we must weigh carefully whether the land in question should be used for other purposes where the needs are more pressing. Regarding auto-fuel market’s sales model, noting that the increase in sales of non-fuel products would not have a significant impact on the revenue of PFSs, and that there are fire safety concerns, we have no intention to encourage PFSs to expand their non-fuel retail business. We also have reservation about allowing fuel trucks to provide retail services for reasons of fire safety, traffic management, etc.

As regards the investigative power of the Commission, there had been extensive public consultation and thorough discussions at the Legislative Council (LegCo) prior to the enactment of the Competition Ordinance (Cap. 619) (the Ordinance). The provisions of the Ordinance were drawn up by the Government having balanced different considerations and were passed by LegCo. According to Ordinance, although the Commission has no power to obtain specified information or documents for conducting market studies, it may conduct an investigation if it has reasonable cause to suspect that a contravention of a competition rule has taken place, and require any person to produce specified information or documents, or to attend before the

Commission, etc., in accordance with the Ordinance. The Government will continue to liaise closely with the Commission on the implementation of the Ordinance.

Yours sincerely,

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

(Ms Esther WANG)
for Secretary for the Environment