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## **Competition Policy of Hong Kong, China: Background and Recent Developments**

Purpose: Information  
Submitted by: Hong Kong, China



**Competition Policy and Deregulation Group  
Jeju, Korea  
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## APEC Competition Policy and Deregulation Group

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### **Competition Policy of Hong Kong, China: Background and Recent Developments**

#### **I. INTRODUCTION**

Hong Kong, China (HKC)'s economy is characterised by an open market, a high degree of internationalisation, business-friendly environment as well as free flow of capital and information. Our market is highly accessible and contestable, which allows all businesses, foreign or local, big or small, to compete on a level playing field with minimal government intervention. To ensure that HKC continues to be an open, externally oriented economy with a pro-competition environment, the Government practices no restrictive measures and maintains no economic, structural or strategic barriers to market entry.

#### **II. HKC'S COMPETITION POLICY**

2. HKC is committed to promoting free trade and competition. The objective of our competition policy is to enhance economic efficiency and free trade, thereby benefiting consumers. Competition is a means to achieving the said objective, and not an end in itself. HKC's competition policy is basically composed of three components: a policy framework laid down by a high level **Competition Policy Advisory Group (COMPAG)**; a **Statement on Competition Policy**; and a **sector-specific approach** in tackling anti-competitive practices.

##### **Sector-specific Approach**

3. We adopt a sector-specific approach in our competition policy. In dealing with anti-competitive practices, we will consider measures which may include administrative arrangements, licensing conditions, contractual provisions, codes of practice, and sector-specific legislation if warranted. This

approach affords us flexibility, taking into account the circumstances of different sectors and any change therein. For example, in the light of the special circumstances in the telecommunications and broadcasting sectors, provisions against anti-competitive practices are included in the legislation that set out the overall regulatory framework for these sectors.

### **III. RECENT DEVELOPMENTS**

4. The latest progress and developments in HKC's competition policy as well as implementation of sectoral policies and/or laws are outlined below.

#### **Review of the Government's existing competition policy**

5. COMPAG will appoint an independent committee (the Committee) to review the Government's existing competition policy and the composition, terms of reference and operations of COMPAG. The Committee will be chaired by a non-official, with members drawn from different sectors of the community. All non-official members, appointed on ad personam basis, will be selected on the merit of the individual concerned, taking into account the person's ability, expertise, experience, integrity and commitment to public service. The Committee will be set up in mid-2005 and is expected to complete its review in 12 months' time.

#### **Competition Policy Guidelines**

6. To proactively promote competition, COMPAG has promulgated in September 2003 a set of guidelines to supplement the *Statement on Competition Policy* (issued in May 1998), which sets out our comprehensive competition policy framework. The guidelines aim to provide pointers with objective benchmarks and principles to assess HKC's overall competitive environment, to define and tackle anti-competitive practices, and to ensure consistent application of competition policy across sectors. The business sector is generally supportive of the Guidelines -

- (a) Local associations: the Hong Kong Retail Management Association, for instance, has developed a code of conduct to encourage self-regulation against anti-competitive practices and promote competition in the supermarket sector in the first instance; while
- (b) Associations of overseas businesses in HKC: the American Chamber of Commerce, the Australian Chamber of Commerce and the Singapore Chamber of Commerce, for example, have undertaken to promote the Guidelines to their members through newsletters, publications or other means.

## **Telecommunications Market**

7. Under our liberalisation policy, all sectors of our telecommunications market, local and external, facilities-based and services based, have been fully liberalised since 1 January 2003. We do not set any limit on the number of licences to be issued. The level of investment by a licensee will be determined by the market.

8. In enacting the Telecommunication (Amendment) Ordinance 2000 in June 2000, we have provided in the amended Ordinance the first **sector-specific competition legislative safeguards** in HKC. It prohibits against anti-competition practices and abuse of dominant position, and is applicable to all telecommunications licensees. The legislation also provides for a new Telecommunications (Competition Provisions) Appeal Board to be established, providing an independent appeal channel on the merits of the Telecommunications Authority (TA)'s opinions, determinations, directions or decisions on competition matters. The amended Ordinance also streamlines the licensing framework to respond more flexibly to market development.

9. The Telecommunications (Amendment) Ordinance 2003 came into force in May 2004, providing a comprehensive and clear legislative framework for the regulation of mergers and acquisitions in the telecommunications market. The TA also issued a set of guidelines on merger and acquisitions in HKC's telecommunications market in May 2004, to provide practical guidance on the analytical and procedural approach that the TA intends to follow when

administering the relevant provisions in the Telecommunications Ordinance.

### **Retail Auto-fuel Market**

10. To facilitate new entrants and enhance competition in the retail fuel market, the Government has since June 2003 introduced new tendering arrangements for petrol filling station (PFS) sites to enable new market players to acquire a “commercially viable mass” sites to achieve economies of scale<sup>1</sup>. Two new players have successfully entered the market by securing all five PFS sites in the batch tendered in October 2003 and February 2004 respectively.

11. In addition, we will commission an independent consultant to assess the competition situation in the auto-fuel retail market in HKC, and examine whether the oil companies involved might have engaged in any anti-competitive practices. The study will look into the structure, operating costs and retail pricing, etc. of the local auto-fuel market and make reference to the competition laws in other economies such as the United States, European Union and Australia, and the experience and measures adopted by these economies in tackling anti-competitive behaviour of oil companies. The consultant will also make recommendations on whether, if so what measures including legislation might be required to ensure fair competition in the auto-fuel market in HKC. We have started work on selecting a consultant to conduct the study. The study is expected to start in mid 2005 and to complete before end of the year.

## **IV. CONCLUSION**

12. We will continue to monitor developments at all fronts and adopt measures as appropriate to safeguard the competitive business environment in HKC.

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<sup>1</sup> Under the new arrangements, PFS sites are put up for tender in batches of five sites and tenderers are permitted to submit a “super bid” for all five sites or submit separate bids for individual sites. The tender price of a ‘super bid’, if any, will be compared with the aggregate of the tender prices of individual bids to be accepted for each of the sites. If the latter turns out to be higher than that of the ‘super bid’, the PFS sites will be awarded to the successful individual bids. That is to say, ‘super bids’ will not take precedence over individual bids.