
MEMORANDUM OF UNDERSTANDING

BETWEEN

**THE INDEPENDENT COMMISSION AGAINST CORRUPTION OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION**

AND

THE COMPETITION COMMISSION

1. Background

- 1.1 This Memorandum of Understanding (“**MoU**”) sets out the framework for cooperation and collaboration between the Independent Commission Against Corruption (“**ICAC**”) and the Competition Commission (“**CC**”) (each referred to as a “**party**”, together as “**parties**”) in the performance of their respective enforcement and regulatory functions (“**Functions**”).
- 1.2 This MoU supersedes any previous arrangements between the ICAC and the CC on the same matters.

2. Functions of the Parties

- 2.1 The ICAC was established under the Independent Commission Against Corruption Ordinance, Cap. 204 (“**ICACO**”) as an independent anti-corruption agency accountable directly to the Chief Executive of Hong Kong. It is the statutory duty of the ICAC to, among other things, investigate corrupt practices and offences under ICACO, Prevention of Bribery Ordinance, Cap. 201 and Elections (Corrupt and Illegal Conduct) Ordinance, Cap. 554.
- 2.2 Pursuant to the general duties and powers as set out primarily in the above-mentioned Ordinances, the ICAC is committed to fighting corruption through law enforcement, education and prevention to keep Hong Kong fair, just, stable and prosperous. The ICAC also fosters international cooperation among anti-corruption agencies worldwide in the common fight against graft.
- 2.3 The CC is an independent statutory body established under the Competition Ordinance, Cap. 619 (“**CO**”). It administers and enforces the CO across all sectors of the Hong Kong economy. The objective of the CO is to prohibit conduct that prevents, restricts or distorts competition, and to prohibit mergers that substantially lessen competition in Hong Kong. As the law now stands, the scope of the application of the merger rule is limited to undertakings directly or indirectly holding carrier licences issued under the Telecommunications Ordinance, Cap. 106.
- 2.4 The CC’s investigative powers are specified in the CO. The CO also sets out the functions of the CC, which are:
- to investigate conduct that may contravene the competition rules of the CO and enforce the provisions of the CO;

- to promote public understanding of the value of competition and how the CO promotes competition;
- to promote the adoption by undertakings carrying on business in Hong Kong of appropriate internal controls and risk management systems and to ensure their compliance with the CO;
- to advise the Government on competition matters in Hong Kong and outside Hong Kong;
- to conduct market studies into matters affecting competition in markets in Hong Kong; and
- to promote research into and the development of skills in relation to the legal, economic and policy aspects of competition law in Hong Kong.

3. Purpose and Principles

3.1 The Hong Kong Special Administrative Region is a major international financial, trade and business centre. It is important to maintain a clean, free and level playing field for businesses in Hong Kong. The parties have a mutual interest and respective duties in combating corruption, crimes, illicit and/or anti-competitive activities in all business sectors in Hong Kong. The parties recognize the need for the fullest cooperation and collaboration in order to perform their respective Functions effectively.

3.2 The parties acknowledge the following overriding principles:

- this MoU does not and is not intended to have any legal effect and does not constitute a legally binding agreement;
- notwithstanding its lack of legal effect, the parties will nevertheless use their best endeavour to meet the terms of this MoU;
- this MoU does not modify or supersede any laws or regulations or any guidelines or published policies issued by either party;
- this MoU does not amount to a delegation of any of the powers, duties or obligations of the parties;
- this MoU does not create, directly or indirectly, any legal rights, obligations or liabilities, enforceable by the parties or any other person;
- if a matter is not dealt with explicitly in this MoU, the parties agree to work together to resolve it quickly in accordance with the principles of cooperation and collaboration;
- this MoU does not affect any arrangements under any other MoU that the parties have entered into or may enter into with any other person.

Guidance on Cooperation and Collaboration between the Parties

4. Referral of Cases

4.1 In the discharge of its duties, each party will actively consider whether to refer matters to the other party for possible action, having regard to the other party's Functions.

4.2 The ICAC may make a referral to the CC for evaluation of possible action where it considers that:

(a) the matter falls outside the Functions of the ICAC (see paragraphs 2.1 and 2.2) but may fall within the Functions of the CC under the laws administered by the CC (see paragraph 2.3 and 2.4); or

(b) the matter falls within the Functions of the ICAC but also contains elements which may fall within the Functions of the CC.

4.3 The CC may make a referral to the ICAC for evaluation of possible action where it considers that:

(a) the matter falls outside the Functions of the CC under the laws administered by the CC (see paragraph 2.3 and 2.4) but may fall within the Functions of the ICAC (see paragraphs 2.1 and 2.2); or

(b) the matter falls within the Functions of the CC but also contains elements which may fall within the Functions of the ICAC.

4.4 Following receipt of sufficient materials to conduct a referral for evaluation, the party receiving a referral ("**Receiving Party**") will advise the referring party ("**Referring Party**") about the outcome of its evaluation as soon as practicable. If the Receiving Party cannot complete the evaluation within a reasonable period of time, particularly relating to a complicated case, it will provide an update to the Referring Party on the status of the evaluation. If the Receiving Party has communicated to the Referring Party its acceptance of the referral for investigation, the Referring Party will not take any action that may compromise the investigation of the Receiving Party without prior consultation with the latter.

5. Joint Investigations

- 5.1 If a case falls within the Functions of both parties, the parties may agree to commence a joint investigation in order to minimize the duplication of effort, and enhance the efficient use of their respective resources as well as the effectiveness of the investigation.
- 5.2 Once the parties have commenced a joint investigation, they will set up a joint task force and decide on its membership to ensure efficient and timely exchange of information and coordination. The joint investigation task force will convene an initial coordination meeting as soon as practicable to formulate investigation plans, determine investigatory responsibilities and coordinate the collection of evidence. The joint investigation task force will also convene meetings at agreed regular intervals to review the progress of the joint investigation and discuss the action to be taken during or at the conclusion of the joint investigation.

6. Exchange and Use of Information

- 6.1 The parties will exchange information which is conducive to the objectives of this MoU and which may assist the other party in discharging its Functions. For this purpose, the parties may conduct *ad hoc* meetings from time to time to discuss matters of mutual interest relating to the performance of their respective Functions.
- 6.2 Each party will provide the other party with information subject to and only in accordance with applicable laws (particularly the Personal Data (Privacy) Ordinance, Cap. 486). Each party will treat any non-public information provided by the other party as confidential and only use it in accordance with applicable laws and this MoU. Except as otherwise required or permitted by law, a party that receives information under this MoU will not disclose it to a third party without the prior written consent of the party providing the information.
- 6.3 Each party will establish and maintain such safeguards as are necessary and appropriate to protect the confidentiality of such information.

7. Investigative Assistance

- 7.1 Each party will consider requests from the other party for investigative assistance on a case-by-case basis.

8. Joint Research

- 8.1 The parties will conduct joint research on issues of mutual interest relating to the performance of their respective Functions. The specific arrangements regarding the research topics, methodology, research funds and any other relevant research matters will be jointly decided by the parties.
- 8.2 Subject to and only in accordance with applicable laws, the parties will:
- (a) exchange the data, information and materials for the purpose of conducting the joint research; and
 - (b) share the research outcomes.
- 8.3 Except as otherwise required or permitted by law, either party will not disclose the data, information and materials related to the joint research to a third party without the prior written consent from the other Party.

9. Communication and Media Strategy

- 9.1 The parties will hold liaison meetings every six months or at intervals to be agreed between the parties and *ad hoc* meetings, where necessary, to discuss cases of mutual interest, any proposed legislative and/or policy changes that may affect the Functions of each party as well as the implementation of this MoU.
- 9.2 Prior to the publication of any information, such as media releases concerning any joint investigations and joint research, the parties will consult each other and ensure that the timing and contents of the media releases are coordinated.

10. Capacity Building

- 10.1 The parties intend to coordinate their training initiatives and organize joint training opportunities to improve the capacity and effectiveness of their staff in performing their respective Functions.

11. Designated Principal Contacts

- 11.1 Each party will send any request or communication relating to policies or high level inter-organizational relationship matters to one of the designated principal contacts of the other party whose contact details are set out in Appendix A.
- 11.2 Each party will send any request or communication relating to a specific case and any other routine matter to the designated secondary contacts of the other party whose contact details are set out in Appendix B.
- 11.3 The parties may add to and/or change their respective designated principal or secondary contacts from time to time by notifying each other in writing.

12. Effective Date and Termination

- 12.1 This MoU shall take effect on 18 December 2024.
- 12.2 This MoU may be amended or terminated at any time by mutual written consent of both parties.

13. Language

- 13.1 This MoU is made in Chinese and English. The English version shall prevail in the event of any inconsistencies or conflicts as to the terms of this MoU.

Dated 18 December 2024

[Signed]

[Signed]

Mr YAU Shu-chun
Deputy Commissioner
and Head of Operations
for and on behalf of the
Independent Commission
Against Corruption

Mr Rasul BUTT
Chief Executive Officer
for and on behalf of the
Competition Commission