

21 July 2015

For Immediate Release

Handling competition matters before full commencement of the Competition Ordinance

Following the gazetting by the Government of a commencement notice for the full commencement of the Competition Ordinance (Ordinance) on 14 December 2015, the Competition Commission (Commission) made the following statement today (21 July 2015) in response to inquiries received over the past several months about its position on the handling of competition matters during the period up to the date of full commencement.

Applications for Decisions confirming the applicability of Exclusions or Exemptions and Block Exemption Orders

The Commission will not accept before the date of full commencement, applications for a decision under sections 9 and 24 of the Ordinance or for a block exemption order. However, if parties intend to apply for a decision or block exemption order after commencement, the Commission is prepared, subject to available resources, to enter into preliminary discussions with the parties in respect of those applications in advance of the date of full commencement.

Dr. Stanley Wong, Chief Executive Officer of the Commission, said, “Before full commencement, the Commission will do preparatory work including engaging with a prospective applicant, if such work would assist the Commission to deal with the application more expeditiously when the Commission receives the application after the full commencement date.”

Compliance with the Conduct Rules

To date, the Commission has taken a broad educative approach to encourage and to assist businesses to be ready, willing and able to comply with the Ordinance when it comes into full effect. The response to this approach has been very positive, with many businesses and trade associations actively engaging with the Commission and making or considering changes to their practices and conduct to ensure compliance.

As the date of full commencement approaches, the Commission will, in appropriate cases, contact businesses and other relevant parties directly if the Commission considers that their conduct or practice may be considered anti-competitive and, therefore, likely to contravene the Ordinance after full commencement.

Dr. Stanley Wong stated, “The Government’s announcement of a date for full commencement of the Ordinance should serve as a reminder to businesses, trade associations and others to review their practices and conduct to ensure that they do not contravene the Ordinance. If the Commission becomes aware that a party may be engaging in conduct that, post full commencement, would, in the Commission’s view, likely contravene the First Conduct Rule or Second Conduct Rule, the Commission may bring its concerns to the attention of that party.”

Note to the Editor

The Competition Commission is an independent statutory body established to enforce the Competition Ordinance (Cap. 619), which was enacted in June 2012. The objective of the Ordinance is to prohibit conduct that prevents, restricts or distorts competition, and mergers that substantially lessen competition in Hong Kong. At the present time, the Merger Rule applies only to a merger involving an undertaking that directly or indirectly holds a carrier licence issued under the Telecommunications Ordinance (Cap. 106).