REPORT ON THE REVIEW OF HONG KONG'S COMPETITION POLICY

Competition Policy Review Committee
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COMPETITION POLICY REVIEW COMMITTEE

REPORT ON THE REVIEW OF HONG KONG'S COMPETITION POLICY

1. Introduction

The Hong Kong Government's competition policy is set out in the statement issued by the Competition Policy Advisory Group (COMPAG) in May 1998, which describes the objective of the policy as –

> "To enhance economic efficiency and free flow of trade, thereby also benefiting consumer welfare. The Government is committed to competition as a means to achieving the said objective, and not as an end in itself."

2. The Competition Policy Review Committee (CPRC) was appointed by COMPAG in June 2005 to review the effectiveness of Hong Kong's competition policy and to report to COMPAG on its findings. In his Policy Address in October 2005, the Chief Executive said that the review committee would "draw on international experience and discuss the need to introduce in Hong Kong a comprehensive and cross-sector law on fair competition, as well as its scope and application".

3. The CPRC has looked at competition policy and law in overseas jurisdictions, as well as the current sector-specific approach in Hong Kong. Whilst formal public consultation on competition policy will be conducted by the Government in due course, for the purpose of gathering initial views, the CPRC has also written to over 300 trade and industry organisations inviting their views on

Hong Kong's competition policy and in response has received submissions from individuals and organisations.

4. This report summarises the CPRC's deliberations on the future approach to competition in Hong Kong. The report gives a brief overview of the characteristics of the local economy, and describes how competition is regulated in other economies that the CPRC has studied. It then outlines the key considerations of CPRC members when forming their views on a way forward for Hong Kong's competition policy. Finally, it sets out the CPRC's recommendations on the introduction of a new law to regulate anti-competitive conduct.

2. Summary of Recommendations

5. The issues considered by the CPRC are set out in detail in section 6 of this report, and the full recommendations of the review committee are in section 7. For ease of reference, the main recommendations are summarised as follows -

A) New Legislation - General

1. New legislation should be introduced to guard against anti-competitive conduct that would have an adverse effect on economic efficiency and free trade in Hong Kong (paragraph 64 below refers).

2. Rather than target individual sectors of the economy, the legislation should apply to all (paragraph 65).

3. Provision should be included in the legislation to allow the Government to grant exemptions to the application of the law in defined circumstances on public policy or economic grounds (paragraph 66).

4. The regulatory authority should have the discretion to disregard inappropriate complaints, so as to guard against the new law being used to stifle legitimate competitive business activities (paragraph 66).

5. The new law would *not* target market structures, nor seek to regulate "natural" monopolies or mergers and acquisitions (paragraph 67).

B) New Legislation – Broad Provisions

6. The new legislation should cover the following types of anti-competitive conduct –

    - Price-fixing
    - Bid-rigging
    - Market allocation
    - Sales and production quotas
    - Joint boycotts
    - Unfair or discriminatory standards
    - Abuse of a dominant market position (paragraph 68).

7. Such conduct should not be an offence per se, but rather, the particular conduct must be proven –

    a) to have been carried out with the intent to distort the market; or

    b) to have the effect of distorting normal market operation (paragraph 69).

8. There should not be lengthy and detailed descriptions of these types of conduct in the law as such. Appropriate guidelines should be drawn up by the regulatory authority in consultation with relevant stakeholders that would include –

    - detailed descriptions and examples of the types of anti-competitive conduct listed in the law;

- an indication as to how intent and effect in relation to market distortion might be assessed; and

- reference to cases dealt with under existing local sector-specific laws and related overseas legislation (paragraph 70).

C) Regulatory Framework

9. A regulatory authority, to be known as the Competition Commission should be established under the new law. The Commission should have a "two-tier" structure, comprising a governing board underpinned by an executive arm that would include staff with relevant expertise (paragraph 71).

10. The Competition Commission should have an advocacy role, and should be tasked with keeping the scope and application of the new law under review (paragraph 72).

11. The Competition Commission should have sufficient powers to allow it to investigate thoroughly any suspected anti-competitive conduct prohibited by the new legislation (paragraph 73).

12. The Government should seriously consider the merits of establishing a Competition Tribunal to hear cases brought by the Competition Commission and to hand down sanctions (paragraph 76).

13. With regard to sanctions, civil penalties should apply in cases where anti-competitive conduct is found to have occurred (paragraph 77).

14. The Competition Commission should be able to apply for an order from the Competition Tribunal (if established) to require an offender to cease and desist from anti-competitive conduct, pending a decision on the case (paragraph 78).

D) Implementation

15. The Government should engage the community with regard to the parameters of the new competition law and regulatory structure before introducing new legislation (paragraph 82).

16. The Government should plan and make available relevant resources for the establishment of a regulatory structure (paragraph 83).

E) Competition Policy Advisory Group (COMPAG)

17. Bearing in mind that the above recommendations, if implemented, would mean that the new regulatory authority would effectively take over the work currently done by COMPAG, there is no need to make recommendations on its future role (paragraph 62)

3. Terms of Reference and Membership

6. The terms of reference of the CPRC are -

> To review the existing competition policy and the composition, terms of reference and operation of the Competition Policy Advisory Group (COMPAG).

7. The membership of the review committee is at **Attachment A**. The CPRC held eight meetings between June 2005 and June 2006. In addition, Members organised a seminar in August 2005, where experts in competition law shared with the review committee information and views on the background to competition policy and law in a number of overseas jurisdictions, and their relevance to the situation in Hong Kong.

4. Brief Overview of Situation in Hong Kong

8. The CPRC recognizes that in considering the future approach to enhancing competition, including the need for a new competition law, it is important to take account of Hong Kong's own economic characteristics.

Hong Kong's Economic Environment

9. Hong Kong is a free and open economy, with few restraints to trade in goods and services and foreign direct investment (FDI). It is currently the 11th largest trading entity in the world, and the second most favoured destination for FDI in Asia. There are few entry barriers to most industries, and a high proportion of local registered businesses are Small and Medium-sized Enterprises (SMEs)[1]. Companies are free to compete in terms of price, including the use of discount and loyalty schemes, and in terms of differentiated goods and services.

10. However, our domestic market is relatively small[2]. Some sectors characterized by significant economy of scale are dominated by a few big companies, with or without a large number of smaller companies at the periphery. These sectors usually involve large fixed asset investment with long payback periods. Large enterprises also have a natural advantage in sectors where an extensive physical network is essential.

11. The domination of certain sectors by a small number of companies is not anti-competitive *per se*. In certain sectors, this is simply a result of market forces. Nonetheless, in some sectors such domination is combined with other factors,

[1] There were almost 300,000 SMEs in Hong Kong in 2005, constituting over 98% of our business establishments and accounting for about 60% of private sector employment.
[2] The size of the domestic market can be proxied by nominal GDP. In 2005, Hong Kong's nominal GDP was $1,382 billion, equivalent to 51% of that of Taiwan or 8% of that of the United Kingdom.

with the result that the *possibility* of anti-competitive behaviour exists. These factors include high market entry barriers, price inelastic demand, limited product differentiation with competition mainly on price, predictable demand and market share, and vertical integration. Nonetheless, even though the market structure might have elements that could allow for anti-competitive conduct, it does not necessarily follow that such conduct is present.

12. Hong Kong has a vibrant market in many goods and services. With regular public campaigns by the Consumer Council, and in parallel with the development of more accountable and transparent Government, the public has developed a keen sense of consumer rights. The rising number of complaints received by the Consumer Council could be seen as an indication of higher expectations from consumers as they become increasingly aware of their rights. In recent years, there has been increasing demand for greater consumer protection and more competition in sectors such as transport and utilities, where there are perceived to be limited opportunities for new market entrants. There have also been specific allegations of a lack of competition or of anti-competitive behaviour in particular sectors, for example, the sale of auto-fuel, supermarkets, port related fees and charges, exhibition services and the supply of fresh pork. Bundling of services across sectors, for example, the inclusion of telecommunications service charges in estate management fees has also raised concerns.

13. The international community recognises Hong Kong's free and favourable business environment. In a peer review of Hong Kong conducted in 2005, APEC remarked that Hong Kong's market oriented and sector-specific approach to competition had much merit, whilst noting that there was a need for constant surveillance and evaluation of the situation.

14. Nonetheless, some international organizations have expressed concern that there is little regulation of anti-competitive practices in Hong Kong. The WTO Secretariat's report on the 2002 Trade Policy Review on Hong Kong expressed the opinion that "the seeming lack of coherent measures to address anti-competitive practices in all but a few sectors could constitute an obstacle to greater competition" – although this view was later balanced by a comment from the Chair of the WTO Trade Policy Review to the effect that it generally appreciated Hong Kong's efforts to maintain a competitive market. Earlier this year, the IMF welcomed the establishment of a committee to review competition policy in Hong Kong and the possible role of a general competition law.

Recent Developments

a) Policy Direction

15. The Chief Executive noted in his Policy Address in October 2005 that "forces capable of cornering the market may emerge in Hong Kong", adding that he had tasked the CPRC to review the effectiveness of our existing competition policy. He said that the CPRC would consider the need to introduce a comprehensive and cross-sector law, and that rather than intervene in the market, the purpose was: "to actively protect market order and fair competition by preventing manipulative practices".

b) Consultancy Study on the Auto-fuel Retail Sector

16. As noted above, one particular sector in which there has been concern over possible anti-competitive conduct is the auto-fuel retail sector. Recognising such concerns, in June 2005, on behalf of COMPAG, the Economic Development and Labour Bureau (EDLB) engaged a consultancy firm to study behaviour in the

auto-fuel retail market in Hong Kong and to report on whether the local oil companies were colluding in the setting of fuel prices at local petrol filling stations.

17. The CPRC has reviewed the consultant's report (which have been made public on the EDLB website), noting that the key findings were that –

a) the evidence available to the consultant would be unlikely to support a successful prosecution if Hong Kong had competition laws similar to those that apply in other advanced economies;

b) given the inherent characteristics of the local auto-fuel market, however, there is a risk that collusion could occur; and

c) the Government should consider preventive measures aimed at prohibiting cartel behaviour, which could be effected through the passage of a general competition law - should this not be enacted, sector-specific regulation could be considered.

18. In reviewing the consultant's findings, the CPRC recognized that the lack of any statutory powers to require the production of documents or other information meant that any investigation into the auto-fuel or other markets would rely on the extent to which market players voluntarily provided information to the agency charged with the investigation. In the specific case of the auto-fuel retail sector, whilst the oil companies had provided some information, they had cited commercial sensitivity as grounds for not allowing the consultant access to a full range of data and other sources relating to their operations. Nonetheless, given the information that was made available, the consultant was of the view that it had been able to present an accurate picture of

key aspects of the financial operations of the companies, and from this draw firm conclusions regarding the extent of competition in the market.

5. Overseas Practice

Overseas Competition Law and Regulation

19. The CPRC has looked at the concepts and principles of competition law in several overseas economies. In August 2005, the review committee hosted a seminar at which experts on competition policy and legislation in overseas jurisdictions exchanged views and shared experience with the CPRC members.

20. The CPRC has studied the competition laws and regulatory regimes currently in place in the United Kingdom, the USA, Australia, Singapore and Canada. Members have noted the salient features of the different legislative models, as well as the background to their development and implementation. A summary of the broad areas covered by these laws is shown in Table 1 below.

Table 1: Main Areas Covered by Competition Regulatory Regimes

	Singapore	**United Kingdom**	**Australia**	**USA**	**Canada**	**European Union**
Law	Competition Act 2004	Competition Act 1998, Enterprise Act 2002	Trade Practices Act 1974	Sherman Act, Clayton Act and Hart-Scott-Rodino Anti-trust Improve-ments Act	1985 Competition Act	EC Treaty, Articles 81and 82
Scope	Restrictive agreements, abuse of dominance and anti-competitive mergers and acquisitions	Restrictive agreements, abuse of dominance and anti-competitive mergers and acquisitions	Restrictive agreements, abuse of dominance, anti-competitive mergers and acquisitions, unfair trade practices	Monopolies, unreasonable restraint of trade and anti-competitive mergers and acquisitions	Restrictive agreements, abuse of dominance and anti-competitive mergers and acquisitions	Restrictive agreements (Article 81), abuse of dominant market position (Article 82) – separate provisions apply to mergers

	Singapore	United Kingdom	Australia	USA	Canada	European Union
Types of conduct covered	Price-fixing, predatory behaviour towards competitors, market allocation, sales and production quotas, unfair or discrimin-atory standards	Price-fixing, bid-rigging, resale price restriction, market sharing, limiting or controlling output, unfair or discriminatory standards	Price-fixing, sales and production quotas, joint boycotts, price discrimination exclusive dealing, resale price maintenance prohibition of acquisition	Monopolizing or attempting to monopolize, mergers and acquisitions, price-fixing, bid-rigging	Price-fixing, predatory pricing, market allocation, group boycotts, bid-rigging , sales and production quotas	Agreements and practices that have the object or effect of restricting or distorting competition
Other provis-ions	Exemptions may be granted on public policy or economic grounds	Exemptions may be granted on public policy or economic grounds	Amendments introduced in recent years to protect small businesses against larger players; exemptions may be granted on public policy or economic grounds	Scope of the law tends to be defined by the interpretations of the courts; the law provides for exemptions in specific circumstances	Ensuring small and medium-sized enterprises have “an equitable opportunity to participate in the economy” is one of the law’s main purposes; certain public interest or economic grounds could be used as defence	Exemptions may be granted on an individual basis or by block exemption by the European Commission

21. The table indicates that competition laws in other jurisdictions have many common general elements. However, there is no single “mainstream” or “formula” approach to the detailed content of the relevant legislation. Rather, the actual legal and regulatory frameworks adopted in different jurisdictions reflect their specific characteristics, including the size of the economy, market structure and the political and historical context.

22. As with the format of overseas competition laws, the regulatory mechanisms for enforcing these laws vary from place to place. In many jurisdictions, the authority responsible for enforcement has wide-ranging powers including investigating potential cases of anti-competitive conduct and sanctioning offenders. Other places rely heavily on the courts to decide on the extent to which an enterprise has sought to hinder competition unfairly and to hand down appropriate sanctions. Table 2 below highlights some of the main aspects of various regulatory regimes overseas.

Table 2: Competition Regulatory Regimes in Overseas Jurisdictions

	Singapore	**United Kingdom**	**Australia**	**USA**	**Canada**	**European Union**
Enforce-ment agency	Singapore Competition Commission (SCC)	Office of Fair Trading (OFT)	Australian Competition and Consumer Commission (ACCC)	Federal Trade Commission (FTC)	Competition Bureau under the Commissioner of Competition	European Commission – Directorate General for Competition (ECDGC)
Hearing and sanction-ing by	SCC (civil cases); the courts (criminal prosecutions)	OFT – civil sanctions The courts – criminal prosecutions and company disqualification orders	The courts (civil and criminal cases)	The courts (civil and criminal cases)	Competition Tribunal (civil cases); the courts (criminal prosecutions)	ECDGC
Type of sanction	**Civil**: fine of up to 10% of annual turnover for 3 yrs **Criminal**: fine of up to S$10,000 and one year in prison	**Civil**: fines of up to 10% of annual turnover for up to three years **Criminal**: prison term of up to 5 years for cartel offences	**Civil**: fine of up to A$10 million for companies **Criminal**: individual fines of up to A$40,000	**Civil**: fines **Criminal**: fines of up to US$1m for individuals and $100m for companies; prison term of 10 years	**Civil**: financial penalties **Criminal**: up to five years' imprisonment and C$10 million fine	Civil only: fines of up to €20 million or 10% of total turnover in preceding business year (whichever is the greater)
Appeal or review channels	Competition Appeal Board (further appeals through the courts)	Competition Appeal Tribunal (further appeals through the courts)	Competition Tribunal (reviews ACCC merger decisions) and the courts (appeals)	The appeal courts	The appeal courts	European Court of First Instance, European Court of Justice

Relevance to Hong Kong

23. Several of the overseas experts stressed during the seminar that due to the relatively small size of Hong Kong's domestic market, a higher market concentration was inevitable in many sectors to achieve economies of scale and effectiveness in operation. For this reason, unlike in many larger domestic economies, tackling incumbent "natural" monopolies might not be a priority for Hong Kong. Furthermore, given that there is perceived to be relatively little large-scale merger and acquisition activity in the local market, it was felt that this aspect of competition law might also be lower on the CPRC agenda than, for example, price-fixing and other types of anti-competitive conduct.

24. In considering the need for a competition law and the possible scope and regulation of such a law, the CPRC has emphasised that the actual situation of Hong Kong should be taken into account when charting the way forward. This notwithstanding, the CPRC agrees that experience of other jurisdictions provides useful pointers. For example, in the USA, anti-competitive behaviour is defined in very general terms, and the courts then take a view on whether such behaviour has in fact taken place in specific cases. The CPRC has considered whether this approach to the legal definition of anti-competitive behaviour would be suitable for Hong Kong's situation, or whether a clearly defined scope of prohibited conduct would be more consistent with the practice in local law. This issue is discussed more fully in paragraph 44 below.

25. The CPRC has also noted that there are certain features common to all jurisdictions that it has studied, which appear to be indispensable for the effective implementation of competition law, for example –

a) a regulatory authority that is either independent from or in some way removed from the main body of the government and that has access to sufficient resources and expertise;

b) appropriate powers to enable the regulatory authority to investigate possible cases of anti-competitive conduct – typically such powers would include the right to demand the production of evidence and to enter premises and conduct searches (with the necessary authorization, usually from the courts); and

c) sanctions, either civil, criminal or both, which are sufficient to deter people from taking the risk of engaging in anti-competitive conduct.

6. Key Considerations

Overall Policy Framework

26. In considering the future approach to enhancing competition in Hong Kong, the CPRC has concluded that competition is best nurtured and sustained by allowing the free play of market forces. Any new approach, including legislation should serve the policy objective of enhancing economic efficiency and the free flow of trade, thereby also benefiting consumer welfare. The aim should not be to benefit or to target specific sectors, nor to stimulate or introduce competition artificially. Rather, the key objectives should be to reinforce business and consumer confidence, enhance Hong Kong's pro-enterprise, pro-market environment and to provide a level playing-field for all by combating anti-competitive behaviour.

Stakeholder Concerns

27. The CPRC has received submissions from individuals and organizations during the course of its review, vide **Attachment B**. These suggest that there are currently divergent views in the community on the extent to which the Government should regulate competition by legislation, and on whether such legislation should apply across all sectors or only to specific areas. Arguments that have been put forward *in favour of* introducing competition law generally focus on the need to -

a) ensure a level playing field for business in Hong Kong;

b) deter anti-competitive behaviour throughout the economy;

c) address the issue of "bundling" of services across different sectors; and

d) avoid discrimination against certain business sectors or groups of consumers – a good law should apply to all.

In addition, some advocates of a general competition law have also put forward the general argument that such a law could help maximise the efficient use of resources and ensure a wide range of choices and fair prices for consumers.

28. Other submissions have *questioned* the need for new cross-sector competition law (although even these submissions do accept that there might be an argument for legislating to regulate certain specific sectors), arguing that –

a) Hong Kong is already a free and competitive market and we should be careful of interference in normal business operations;

b) there are other ways to enhance competition in local markets without introducing a new competition law; and

c) introducing a new cross-sector law could increase the cost of doing business locally and affect Hong Kong's regional competitiveness.

29. The diversity of views put forward indicates that the issue of whether or not to introduce new competition law is potentially a complex and controversial issue. The CPRC therefore considers that the community should be engaged and public opinion canvassed as necessary before new legislation is introduced, and that ultimately, subject to further feedback from the community -

a) any new competition law should be consistent with practice adopted in familiar jurisdictions, including the sector-specific laws currently in place in Hong Kong in areas such as telecommunications and broadcasting; and

b) an incremental approach to any new legislation should be adopted so as to help build broad understanding and acceptance of new measures, and allow the law to develop.

30. Judging from the submissions received by the CPRC, there is concern in some sectors that the enactment of a new law might lead to increased compliance costs that would impact upon business. For example, smaller companies might see themselves at a disadvantage, in that they would not have the resources to defend themselves from legal challenges to their conduct from larger companies. For larger corporations, particularly those in markets with few participants, there is concern that new legislation might be used to target existing market structures that function well in terms of providing services to consumers.

31. The CPRC acknowledges these concerns, and considers it important that any new competition law should not have the effect of adversely affecting normal business operations, unduly raising business costs or interfering with free market structures.

Existing Concerns Relating to Anti-competitive Behaviour

32. A review of the complaints against anti-competitive practices received by COMPAG in recent years (vide **Attachment C**) indicates that the majority of these concern specific types of perceived anti-competitive conduct, rather than the structure of existing markets. The types of anti-competitive behaviour that are of particular concern to companies and individuals include -

a) abuse of a dominant market position by companies, in particular where this might involve predatory pricing or unfair or discriminatory standards;

b) restrictive marketing practices; and

c) price-fixing.

33. The profile of the complainants to COMPAG shows a fairly even split between complaints from large corporations (18% of complaints), individual consumers (18%) and non-government organizations (25%), with a higher proportion of complaints coming from SMEs and individual traders (39%). From these figures, it is fair to assume that anti-competitive conduct is a concern amongst different sectors.

34. One area related to competition that is frequently subject to regulation in other jurisdictions is the issue of mergers and acquisitions. In Hong Kong, there is no clear indication that merger and acquisition activity is currently a threat to competition in most sectors, and having regard to the submissions received, the CPRC has concluded that there is little justification at this time for regulation of mergers and acquisitions outside the existing provisions in sector specific laws covering areas such as broadcasting and telecommunications. Rather, in developing proposals for any new legal framework, the focus should be primarily on sanctioning specific types of anti-competitive conduct that affect normal business operations and jeopardizes the free market economy.

Possible Way Forward

A) Regulating Anti-competitive Conduct

35. In moving towards recommendations on a viable approach to enhancing competition regulation, the CPRC has considered the following factors –

a) whether regulation should be specifically tailored to individual sectors of the economy or be cross-sector in nature;

b) the extent to which new legislation is needed to enhance the competition regulatory regime; and

c) whether any new laws should cover all aspects of competition from the start or should focus initially on the types of conduct that are of greatest concern.

I. Cross-sector or Sector Specific Regulation

36. Currently, competition in Hong Kong is regulated on a sector specific basis, and currently two sectors, namely broadcasting and telecommunications, are regulated by means of industry specific legislation.

37. The CPRC has considered the pros and cons of introducing cross-sector competition regulation, and has come to the view that, as anti-competitive conduct could occur in any sector, there are no strong grounds for targeting only certain individual sectors or industries for regulation. Whilst there might be a common perception that certain specific sectors are particularly vulnerable to

anti-competitive behaviour, the profile of complaints to COMPAG in recent years indicates that concerns as to anti-competitive conduct are spread across a large number of sectors. Furthermore, there is no firm evidence that the larger (or more "dominant") companies in particular sectors are more or less likely to engage in anti-competitive conduct than any other companies.

38. Were the Government to extend competition regulation only on a sector specific basis, it would be difficult to define clearly the exact scope of many of the individual market sectors in Hong Kong, and therefore to put effective regulatory mechanisms in place. In the case of the broadcasting and telecommunications industries, the markets are clearly defined by the licensing regimes under which the relevant authorities govern these sectors. The sector-specific competition legislation governing these sectors was put in place in part to regulate market structures. The CPRC would wish to avoid creating a misunderstanding that it was aiming to target market structure in other sectors through sector specific regulation.

39. In the course of discussion on this aspect of competition regulation, two members of the CPRC have expressed **reservations**, registering concern that the application of a new competition law across all sectors might adversely affect business. They have argued that a sector specific approach is consistent with the current situation in Hong Kong, and that extending this to cover only those sectors where competition was felt to be of concern to the public would be more prudent than bringing in a full-scale cross-sector law. In due course, and in the light of experience, the law could then gradually be further extended to cover additional sectors.

II. Regulation through Legislation

40. The CPRC has studied the guidelines issued by COMPAG in 2003, which describe specific types of behaviour that are considered to be anti-competitive. It has noted that the Government has adopted measures to tackle identified or potential anti-competitive behaviour. Whilst such guidelines and targeted measures might have a useful educational effect in alerting the business community and the public to the types of anti-competitive conduct that are considered to be detrimental to Hong Kong's economic efficiency, they are unlikely to have significant deterrent effect. Moreover, COMPAG and most of the relevant government agencies that follow up on complaints to COMPAG do not have sufficiently extensive investigative powers to undertake in-depth inquiries. Therefore it is difficult for COMPAG to reach any conclusive findings that anti-competitive conduct has taken place and to publicise its findings as a deterrent to others.

41. The CPRC has also noted that continuing to regulate competition without legislative backing would require an extensive long-term commitment to publicity, education and encouraging cooperation from all sectors of the community. The only effective sanction that could be deployed would be to "name and shame" companies engaged in anti-competitive behaviour, which, given the ease with which companies can exit and re-enter markets under new names, would provide at best only a limited deterrent. Such an approach would likely cause the public to question the Government's resolve in tackling anti-competitive conduct in Hong Kong.

42. The CPRC has therefore concluded that the most effective means of regulating anti-competitive behaviour in the market is to put in place a regime

that has legislative backing. To ensure broad consistency with the existing competition policy, the legislation concerned should be drawn up with the purpose of preventing anti-competitive conduct rather than seeking to "open up" particular sectors to greater competition. It should also provide for exemptions to be granted by the appropriate authority, where merited on economic or public policy grounds.

43. The two Members expressing reservations about cross-sector regulation are also concerned about the possible adverse effect of a cross-sector law on business, in particular SMEs. They consider that such firms might not be aware of their obligations under a new law, and might unwittingly fall foul of the new provisions. In seeking to ensure compliance with the law, they might face large legal costs. Further, such a law might make them vulnerable to action by large companies seeking to undermine smaller competitors by accusing them of anti-competitive conduct, even without evidence to back up such complaints.

III. Defining the Scope of Competition Law

44. The 2003 COMPAG guidelines give useful examples of types of conduct that might be considered anti-competitive. The review committee has considered whether these are representative of the types of behaviour that should be addressed in seeking to prevent anti-competitive conduct in Hong Kong. In considering the extent to which any new competition law might cover specific types of conduct, the CPRC has taken the view that –

a) the focus of any new law should be on prohibiting defined types of conduct that run counter to the objectives of the competition policy; and

b) by defining the scope of new legislation to cover certain specified types of anti-competitive conduct, the new law would be seen to have more clarity and would therefore be less likely to become a burden to normal business operations. This approach would also allow for regulation to focus on issues that are of the greatest concern in Hong Kong.

45. As regards the detailed description of the specified types of conduct in the law, the CPRC considers that it is difficult to define exhaustively the various practices that might come under the various categories of anti-competitive conduct. Furthermore, if the definitions of such conduct were too detailed, it is likely that frequent legislative amendments would be required to modify these as new examples of anti-competitive practice emerge. In addition, the body charged with determining whether or not anti-competitive conduct has taken place should have a reasonable degree of flexibility to ensure that prevailing and new market conditions could be taken into account.

46. The CPRC has noted the drawbacks of trying to describe the nature of the specified types of conduct exhaustively in the law. It also recognises that a general definition of such conduct might create uncertainty as to what could constitute an illegal practice. For this reason, business and consumers would need clear guidance as to the types of conduct that could be considered anti-competitive. Such guidance could take the form of administrative guidelines, similar to those issued under the Broadcasting and Telecommunications Ordinances, which indicate how the regulatory authority proposes to perform its functions. Whilst such guidelines would not in themselves have legal effect, they could clarify the principles that would govern regulatory considerations and decisions, thereby providing a degree of certainty to stakeholders.

B) Regulatory Procedures

47. The introduction of a new competition law would require the setting up of new regulatory mechanisms. The CPRC has reviewed regulatory models in other administrations around the world, as well as local examples, such as the Broadcasting Authority, the Telecommunications Authority, the Equal Opportunities Commission and the Market Misconduct Tribunal.

48. Having considered these models, the CPRC has come to the view that for the regulation and enforcement of any competition law to be effective, there will be a need for –

a) the regulator to have statutory powers that would allow for full and fair investigation of possible cases of anti-competitive conduct;

b) sanctions that would have a clear deterrent effect; and

c) appropriate checks and balances, including channels of appeal, to guard against abuse or misuse of regulatory powers.

49. The CPRC has considered whether civil or criminal sanctions should apply to proven cases of anti-competitive conduct. Whilst the threat of imprisonment in particular might deter people from engaging in anti-competitive conduct, the CPRC has concluded that civil sanctions, including heavy fines and the threat of disqualification from being a company director should have a sufficiently

powerful deterrent effect.[3] It also considers that this is a prudent approach to Hong Kong's first step in putting in place a competition law.

50. The CPRC has also considered the importance of the regulator having further powers and administrative remedies that would help in the effective and efficient enforcement of the law, such as –

a) the power to seek an order from an appropriate judicial authority to require parties to "cease and desist" from anti-competitive conduct, in order to minimize possible harm to markets as soon as possible after such conduct has been detected;

b) the authority to reach a settlement with a party involved in an investigation without the need to seek formal sanctions; and

c) the discretion not to pursue cases in the event of complaints being considered to be inappropriate. This should address the concern noted in paragraph 43 above that small companies might be subject to action by large companies. The decision on the merits of complaints would rest with the regulator.

51. In considering the procedure for issuing "cease and desist" orders, the CPRC has noted that there might be a concern that the process of securing such an order from the courts could lead to delay. However, it is consistent with the role of judicial bodies – and accordingly, should a dedicated judicial body be established to adjudicate on cases of anti-competitive conduct (as is considered in paragraphs 55 to 57 below), it would also be consistent with the role of such a

[3] Nonetheless, consistent with general practice relating to the investigation and prosecution of offences under other laws, failure to comply with a direction or undertaking or order related to the provision of evidence should result in criminal sanctions, including imprisonment

body - that they should have the power to issue “cease and desist” orders, on application by the Commission.

52. As well as the statutory powers outlined above, the CPRC has discussed the extent to which the regulatory authority should have an advocacy and educational role, noting that legislation on anti-competitive conduct is a relatively new field of the law in Hong Kong, and that it is important that the public and the business sector understand clearly the principles behind the enactment and application of the law.

C) Regulatory Authority and Role of the Courts

53. As regards the administrative structure for the enforcement of competition law, the CPRC considers that it is important for any competition regulatory authority to have sufficient resources and expertise to enforce the competition regime effectively. In addition, a suitable degree of separation from Government bureaux and departments should be provided for. This could be achieved by having the full-time executive subject to the supervision of a non-executive chairman and a non-executive board. The CPRC notes that a similar structure is well established for a number of regulatory bodies in Hong Kong, for example, the Broadcasting Authority.

54. In terms of operation, the extent to which either the executive or the board would be responsible for decisions to initiate investigations or prosecutions will need to be further considered. As the purpose of having a board is to create a two tier structure, it would seem appropriate for the board to operate at a remove from the “hands-on” role of the executive, and to focus on overseeing enforcement policy and how this is applied to specific cases.

55. The CPRC has also deliberated on the adjudicating authority and the role of the courts in enforcing competition law. In this regard, the CPRC has noted the **two broad approaches** taken in Hong Kong and other jurisdictions, namely –

a) for the regulatory body itself to enforce all aspects of competition law, including deciding cases and imposing penalties, with the role of the courts (including specialist tribunals) being limited to reviewing the regulator's decisions; or

b) for the courts (or a specialist tribunal) to be responsible for adjudicating cases and handing down penalties following the investigation of cases by the regulator.

56. Whilst noting that allowing the regulator to act as both investigator and adjudicator is consistent with the approach adopted in local broadcasting and telecommunications laws, the CPRC has also considered the case for establishing a specialist tribunal to hear actions brought by the regulatory authority. The CPRC accepts that there are a number of arguments for having a single regulatory body investigate, determine the outcome of and hand down penalties for cases of anti-competitive conduct. For example –

a) a simple and streamlined institutional structure is consistent with the principle of small government;

b) it is likely that cases could be dealt with more quickly by a single regulatory body;

c) if only civil sanctions are to be imposed for breaches of the law, it is questionable whether there is a need for a judicial body to hand down penalties;

d) having separate bodies engaged respectively in the investigation and the adjudication of cases of anti-competitive conduct would require more resources (and quite possibly the duplication of some support functions) than having a single body responsible for all aspects of regulation and enforcement;

e) there is no indication that the competition regimes in place in the United Kingdom and Singapore (as well as the current arrangements in Hong Kong for the broadcasting and telecommunications sectors), where the regulatory authority determines cases and hands down civil penalties, have led to unfair treatment; and

f) the regulatory authority's decisions could in any event be subject to a specific appeal mechanism that would then be subject to further judicial review by the courts.

57. However, the CPRC is also mindful of the following arguments *for* establishing such a tribunal to adjudicate on cases of suspected anti-competitive conduct –

a) it would provide for objective judgment of the merits of individual cases at a remove from the day-to-day operation of the regulatory authority;

b) a tribunal would provide a check against over-zealous regulation (for example, through the setting of aggressive quantitative targets for

investigation and sanctioning of anti-competitive conduct) by a government-appointed regulator;

c) given that the Government itself may be involved in certain markets from time to time, the existence of such a tribunal, independent of the government-appointed regulator, should reassure the public and the business community that a fair hearing will be given to all parties and without favour; and

d) having a dedicated tribunal to deal with this potentially complex area would allow for the development of specialist knowledge and expertise among a group of independent tribunal members and could also ensure consistency in the application of the law.

Interface with Existing Regulatory Framework

58. As noted elsewhere in this report, legislation to prohibit anti-competitive conduct already exists in the broadcasting and telecommunications sectors in Hong Kong, each of which has its own regulatory framework. It is common in other jurisdictions for the implementation of cross-sector law and sector specific competition laws to be handled by separate agencies, within defined parameters. The cross-sector law may apply to all sectors and the regulators for specific sectors may or may not play a part in the enforcement of the cross-sector law in their own particular sectors. The following table summarises the situation in the jurisdictions that have been studied by the CPRC -

	Singapore	United Kingdom	Australia	USA	Canada	European Union
Cross-sector or sector specific law co-exist	Application of the Competition Act 2004 is *excluded* from sectors for which there are sector-specific competition laws	Competition Act 1998 and Enterprise Act 2002 are applicable to all sectors	Trade Practices Act 1974 is applicable to all sectors	Sherman Act, Clayton Act and Hart-Scott-Rodino Anti-trust Improvements Act are applicable to all sectors	1985 Competition Act is applicable to all sectors	EC Treaty, Articles 81and 82 are applicable to all sectors
Enforcement	Sector regulators are responsible for enforcement of sector-specific competition law	Sector regulators have "concurrent powers" in enforcement of general competition laws in their particular sectors. Administrative agreements exist so that sector regulators enforce provisions on anti-competitive conduct. General competition authority enforces provisions on mergers.	Enforcement is undertaken by the general competition authority, the Australian Competition and Consumer Commission	Sector regulators like the Federal Communica-tions Commission, have concurrent power to enforce competition provisions (including mergers) in the sectors under the responsibilities of the sector regulators	Enforcement is undertaken by the general competition authority, the Competition Bureau. (A Government policy review panel has recommended in March 2006 that a separate Telecommuni cations Competition Tribunal be established to deal with competition issues in the telecommuni-cations sector.)	Enforcement is undertaken by the general competition authority, the European Commission (the Competition Directorate)
Appeal	Appeal mechanisms under sector-specific competition laws continue to apply	All appeals are dealt with by a common tribunal – Competition Appeal Tribunal, and then the courts	All appeals are dealt with by the courts.	All appeals are dealt with by the courts.	All appeals are dealt with by the courts.	All appeals are dealt with by the European court system.

59. The CPRC considers that during the initial years of operation of the cross-sector competition law in Hong Kong, the existing sector specific regimes in broadcasting and telecommunications should be retained for three main reasons. First, the proposed cross-sector competition law is not as comprehensive in coverage as the existing sector specific regimes, for example, the cross-sector regime will not initially deal with mergers and acquisitions. Second, the sector specific regimes have been operating for a number of years and the sector regulators have built up a body of guidelines, procedures and precedents which the new cross-sector authority may take some time to develop. Third, there are advantages for the sector specific regulators to continue to administer competition law in their respective sectors because of their detailed knowledge about the operation of these sectors. There should be coordination between the cross-sector competition authority and the sector regulators about the administration of competition law to ensure consistent enforcement standards.

The Role of COMPAG

60. The CPRC has noted that few of the complaints that have been referred to COMPAG have been substantiated – although, as can be seen from Attachment C, a large proportion of these complaints were not directly related to anti-competitive conduct. The CPRC considers that there is scope for making the role of COMPAG clearer to the public, and for the group to take a more directive and robust approach to handling complaints and assessing the competitiveness of various markets. In this context, the effectiveness of COMPAG in dealing with abuse would continue to be limited unless it were to have statutory powers to investigate and sanction anti-competitive conduct.

61. The specific areas that the CPRC has considered in reviewing the role and membership of COMPAG include the following –

a) **Structure**: COMPAG could be reconstituted as a two-tier body, with a dedicated secretariat staffed by experts from relevant disciplines underpinning an expanded governing board;

b) **Membership**: the membership of COMPAG could be broadened to include a wider range of interests from non-government sectors;

c) **Transparency**: clear guidelines could be established for the investigation of complaints and subsequent reports, and COMPAG could publicise its views on these and review the Government's progress in following up on specific recommendations;

d) **Approach**: COMPAG could adopt a more pro-active approach by formulating an Action Plan for the study of sectors where anti-competitive conduct was considered to be a relatively higher risk; and

e) **Public Education and Advocacy**: to instill a greater sense of awareness of anti-competitive practices within the community, COMPAG could develop suitable PR and educational initiatives.

62. If new legislation were enacted to regulate anti-competitive conduct, the relevant regulatory authority would effectively take over the work currently done by COMPAG. For this reason, given the recommendation in the following section that new competition laws should be introduced, the CPRC considers that it is unnecessary to make recommendations on the future role of COMPAG.

Accordingly, the recommendations in the following section focus instead on issues related to the introduction of new competition law, including the establishment of a regulatory authority for competition.

7. Recommendations

63. The following recommendations take account of the considerations set out in the previous section. The CPRC noted that there are certain areas in which there might be more than one viable approach to effective competition regulation. The CPRC considers that engaging the public would help the Government reach a firm conclusion on the best course of action in these areas.

New Legislation to Prohibit Anti-competitive Conduct

64. The CPRC **recommends** that new legislation should be introduced to guard against anti-competitive conduct that would have an adverse effect on economic efficiency and free trade in Hong Kong. In making this recommendation, the review committee members has had particular regard to the following issues –

a) whether the law should apply only to certain sectors or cover all sectors;

b) the types of anti-competitive behaviour to be addressed in the law; and

c) the regulatory framework for enforcing such a law.

I. Scope of the legislation

65. Rather than targeting individual sectors, the CPRC **recommends** that the new legislation should apply to all areas of the economy. This recommendation represents the view of the majority of members on the review committee. It takes account of the fact that, unlike in the broadcasting and telecommunications sectors, it would be difficult to define precisely within the law the extent of many

of the individual sectors. Moreover, a sector targeted approach runs the risk of introducing a discriminatory element that is not present in the current competition policy.

66. Having considered whether exemptions to the application of the law might be necessary in certain specific instances on public interest grounds or in order to avoid conflict with international obligations, the CPRC **recommends** that the new legislation should include a general provision to allow the Government to make exemptions from the application of the law in certain defined circumstances. The CPRC also **recommends** that the regulatory authority should have the discretion to disregard complaints that are inappropriate, so as to guard against the new law being used to stifle legitimate competitive business activity.

67. The CPRC accepts the view enshrined in the Government's Statement on Competition Policy that the number of operators or scale of operation within a given market should not be a factor in addressing the question of competition. It has concluded that the new law should not target market structures, and should not seek to regulate "natural" monopolies or mergers and acquisitions. Rather, the focus should be on discouraging specific types of anti-competitive conduct that adversely affect economic efficiency or free trade, to the detriment of consumers.

II. Types of anti-competitive behaviour to be regulated

68. Noting the profile of the types of complaint that have been made to COMPAG **(**vide paragraph 32 above and Attachment C**)**, the CPRC **recommends** that the following types of anti-competitive conduct should be covered in the cross-sector law –

- Price-fixing
- Bid-rigging
- Market allocation
- Sales and production quotas
- Joint boycotts
- Unfair or discriminatory standards
- Abuse of a dominant market position.

69. The CPRC further **recommends** that such conduct should not be an offence per se, but rather, the particular conduct must be proven –

a) to have been carried out with the intent to distort the market; or

b) to have the effect of distorting normal market operation and lessening competition.

70. The CPRC has taken the view that there should not be lengthy and detailed descriptions of specific types of conduct in the new law, so as to allow the regulator appropriate flexibility and to avoid the need for frequent legislative amendments. However, given that certainty and clarity are of paramount importance to all stakeholders, the CPRC **recommends** that appropriate guidelines should be drawn up, by the regulatory authority in consultation with relevant stakeholders, that would include –

- detailed descriptions and examples of the types of anti-competitive conduct listed in the law;

- an indication as to how intent and effect in relation to market distortion might be assessed; and

- reference to cases dealt with under existing local sector-specific laws and related overseas legislation.

III. Regulatory framework and procedure

A) Enforcement – a Competition Commission

71. Having studied examples of overseas and local regulatory practice, the CPRC **recommends** that a regulatory authority, to be known as the Competition Commission, be established under the new law. This authority should have a "two-tier" structure, comprising a governing board (with membership representing various interests – business, professional, consumer and government) underpinned by an executive arm that would include expertise in legal, economic and accounting disciplines. The executive arm would function both as a secretariat and an investigating office.

72. The Commission should have an advisory role, in terms of enhancing and promoting public awareness and understanding of competition issues, providing advice to business – in particular SMEs – to help them avoid unwittingly engaging in anti-competitive conduct and encouraging "fair play" in the markets. It should also be tasked with keeping the scope of the competition legislation under review, and highlighting any potential areas for change for further action by the Government.

73. The CPRC recognises the importance of the Commission having sufficient powers to investigate thoroughly any suspected anti-competitive conduct prohibited by the new law. In line with current practice in Hong Kong and overseas, these should include powers –

a) to require a person to give written or oral information;

b) to require the production of documents or other records or data; and

c) with a warrant issued by the court, to enter and inspect premises and seize relevant documentary evidence.

74. In this connection, the Commission should be responsible not only for implementing the relevant aspects of the new law, but should also be required to draw up its own administrative guidelines and procedures, in consultation with stakeholders. These should include the discretion not to follow up on complaints of a frivolous or vexatious nature that might have the effect of impeding normal competitive business activity.

B) Sanctions and Review – a Competition Tribunal

75. The CPRC has agreed that appropriate checks and balances should be put in place to ensure that business is not subject to unnecessarily rigorous regulation by the new competition authority. The review committee has noted that one option is to establish a Competition Tribunal, which would either –

a) adjudicate on cases brought by the Competition Commission and, where appropriate, hand down sanctions; or

b) act as a review body, hearing appeals against decisions by the Competition Commission (should the latter have sanctioning powers).

76. Having considered the pros and cons of such a tribunal acting as a sanctioning authority (vide paragraphs 55 to 57 above), the CPRC **recommends** that the Government seriously consider the merits of establishing a Competition Tribunal to adjudicate and, where appropriate, impose penalties in respect of cases brought by the Competition Commission in the latter's role as an enforcement agency. The chair and members of such a Tribunal should have appropriate expertise and a high degree of independence and credibility. The Tribunal should develop its own procedures, with a clear emphasis on bringing any hearings to a timely conclusion

77. As regards the sanctions to be applied for breaches of the law, the CPRC considers that civil penalties should be a sufficient deterrent to anti-competitive conduct. Accordingly, it **recommends** that civil penalties, exemplified by heavy fines should apply in cases where anti-competitive conduct is found to have occurred. Parties aggrieved at the outcome of cases or the penalties handed down should have access to the review channels available through the courts.

78. To minimise risk to normal business operations from continued anti-competitive conduct pending the determination of a case, the CPRC **recommends** that there should be provision in the law for the issue of an order to compel a business to cease and desist from anti-competitive conduct, and that the power to issue such an order be vested in the Competition Tribunal, if such a tribunal is to be established. The potential for delay in obtaining such an order could be minimised by, for example, empowering the Tribunal to issue interim orders in instances where the Commission could show a prima facie case that allowing suspected anti-competitive conduct to continue would cause a significant degree of harm to the market.

79. Regardless of the outcome of individual cases of anti-competitive conduct, parties affected by such conduct should be entitled to take civil action in the courts for the recovery of damages suffered. The CPRC considers that such action should not be precluded under the law, and that proven anti-competitive conduct could be cited as grounds for claiming damages.

80. For ease of reference, a diagram showing the various stages of the regulatory process recommended by the CPRC is at **Attachment D** to this report.

8. Implementation

81. The CPRC acknowledges that cross-sector competition legislation sanctioning certain behaviour is an unprecedented step and one that could have wide ranging implications in different sectors of the community. The CPRC therefore **recommends** that the following steps be taken with regard to the implementation of the proposed competition legislation.

82. First, there is a need to engage the public in a thorough and inclusive process of consultation. As well as publishing a suitable consultation document that sets out clearly the background and considerations related to the review of competition policy, the Government should encourage the public to give their views on the issues covered in this report through channels such as public forums, interactive workshops and online discussion platforms. Engaging stakeholders in such a transparent and participatory consultation process should help the Government to develop a clear picture of the most viable parameters for an efficient and effective regulatory regime before introducing new legislation.

83. Second, the Government should carefully plan the administrative and resource requirements for the establishment of an appropriate body to oversee the implementation of the competition regime. Experience in Hong Kong has so far been mostly limited to the telecommunications and broadcasting sectors, and there will be a need to source appropriate administrative, legal and economic expertise to ensure that the new regulatory structure is well-equipped to deal with complaints and investigations.

84. Finally, there will be a need to ensure that any new competition regulatory regime coexists with the related legislation in respect of telecommunications and broadcasting, with a clear delineation of roles and minimal overlap of resources.

85. Competition, and competition legislation in particular, is a complex issue. In taking forward the proposals in this report, it is important that the Government place appropriate emphasis on educating the business community and the wider public as consumers on the role that competition plays in enhancing economic efficiency and delivering benefits to society as a whole. The Government should also make available opportunities for local stakeholders to understand how competition law takes effect in other jurisdictions, in addition to ensuring that the provisions continue to meet the needs of time.

Competition Policy Review Committee
June 2006

Attachment A

Membership of Competition Policy Review Committee

Mr. Christopher Cheng (Chairman)

Mr. Andrew Brandler

Prof. Andrew Chan

Prof. K. C. Chan

Dr. William Fung

Mr. John Griffiths

Mr. Peter Hung

Mr. Ip Kwok-him

Mr. Larry Kwok

Mr. Frederick Lam

Hon. Andrew Leung

Hon. Sin Chung-kai

Ex officio members

Ms Sandra Lee, Permanent Secretary for Economic Development (to 30 March 2006)

Ms Eva Cheng, Permanent Secretary for Economic Development (from 10 April 2006)

Mr. Au Man-ho, Director-General of Telecommunications

Mr. Kwok Kwok-chuen, Government Economist

Mr. Philip Yung, Deputy Secretary (Commerce and Industry)

Attachment B

List of Submissions Received by the CPRC

1.	Democratic Party
2.	Hong Kong General Chamber of Commerce
3.	The Real Estate Developers Association of Hong Kong
4.	Hong Kong Young Industrialists Council
5.	Consumer Council
6.	Mr. Larry Kwok
7.	Hong Kong Business Economic Forum
8.	Record of Proceedings of a Workshop on "Drafting a Competition Law for Hong Kong: Major Provisions and Enforcement" held on 8th February 2006 at The Hong Kong Polytechnic University, submitted by Dr Mark Williams and Dr Stephen Luk
9.	ExxonMobil Hong Kong Ltd
10.	Cathay Pacific Airways
11.	Hon. Ronny Tong
12.	Federation of Hong Kong Industries
13.	The Chinese Manufacturers' Association of Hong Kong

Attachment C

Review of Complaints to COMPAG from 2001-02 to 2004-05

A. Nature of Complaints

Alleged Anti-competitive conduct	No. of cases
Unfair or restrictive government practices	21
Abuse of dominant market position (including predatory pricing)	15
Miscellaneous Restrictive practices[1]	9
Price-fixing	7
Bundling of services	3
Unfair or discriminatory standards	3
Market allocation	1
Exclusive arrangement	1
Joint boycott	1
Others[2]	6
Total :	**67**

1. Includes: obstructing market entry, providing inferior service or charging competitors unreasonably high prices and creating artificial barriers to discourage customers from switching to competitors.
2. Studies initiated by COMPAG on the situation in certain sectors and alleged conflict of interest of publicly-funded organizations.

B. Profile of Complainants

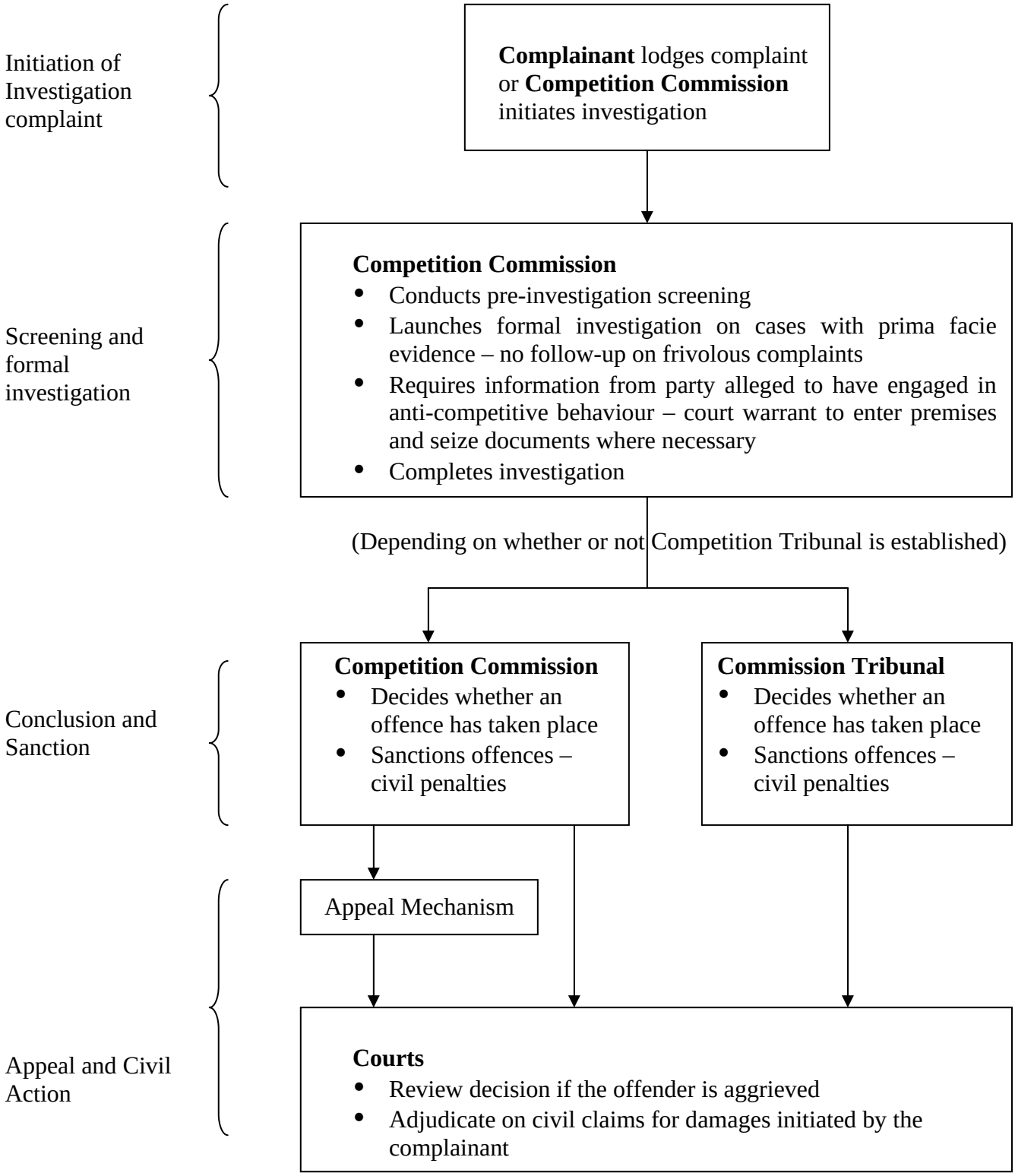
Sector	No. of cases
NGOs	15
Individuals (traders)	13
Large Corporations	11
SMEs	11
Individual consumers / others	11
Total :	**61[3]**

3. Excludes 6 cases that were initiated by COMPAG.

C. Broad Areas of the Economy Involved

Broad Area	No. of cases
Telecommunications	14
Professional services[4]	12
Trading & Retailing	9
Catering & Food supply	7
Transportation & Logistics	6
Real estate & Property management	5
Broadcasting & Media	3
Health care	3
Personal services[5]	3
IT	2
Airline & hotel	2
Miscellaneous	1
Total :	**67**

4. Professional services include accounting & finance, consultancy services, insurance, security services and maintenance of equipment
5. Personal services include interior decoration and car washing

Attachment D

Illustrative Procedural Framework for Investigation of Anti-competitive Conduct