

9 February 2007

Our ref: MD/L015-07

Economic Development Branch (Division A)  
Economic Development and Labour Division  
2/F Main Wing, Central Government Offices  
Lower Albert Road  
Central, Hong Kong

Dear Sirs

**A Public Discussion Document on the Way Forward for Competition Policy in Hong Kong – Promoting Competition – Maintaining our Economic Drive**

We, The Hong Kong and China Gas Company Limited (Towngas'), are writing in response to the Government's public consultation on the above-mentioned paper.

We do not have strong views on such legislation and believe the relevant proposals would not have any strong adverse impact on the economy of Hong Kong provided that the following principles are adhered to:

**1. That legislation is applied across the board to all sectors**

A single law applicable to all sectors would reinforce rather than weaken the rule of law in Hong Kong. It would, by definition, be predictable, fair and consistent, and could be enforced in a transparent way by an independent body, and ultimately, if necessary, in the courts of law.

By contrast, a sector-specific approach would be fraught with problems. Defining the limits of any one sector would be challenging. Different standards would probably emerge sector-by-sector creating legal confusion. A sector-specific approach would need to be drawn up and overseen by Government officials, creating conflicts, tending to opaque decision-making, and almost certainly weakening the rule of law in Hong Kong.

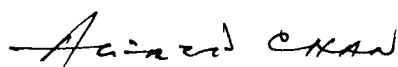
**2. That legislation does not target market structure or market share**

Hong Kong is by nature a small market. Market dominance is probably the result of good management rather than abuse of power. Although in the European Union, a market share of 30% would automatically trigger an investigation by the authorities, the same arrangement would be inappropriate for Hong Kong, as share in so small a market is not necessarily an indication of market manipulation, or even a capacity to manipulate the market but could just be due to lack of competition in the first place.

**3. That legislation does not target “natural monopolies” and mergers & acquisitions**

Many of Hong Kong’s perceived competition policy problems are innate to small markets, so enacting a competition law and drafting details must recognise such a law would not be a panacea. Defining sectoral markets and segments of those sectors would be notoriously difficult, even more so as Hong Kong’s boundary with the mainland becomes more porous. Large infrastructure undertakings, like the airport, cross-harbour tunnels, the mass transit railways, the electricity and gas markets, air cargo terminals and the port, all present challenges that no competition policy authority could easily resolve. The Government, and any new law, would need to formally acknowledge this as a reality. There may, for example, be a need to formally exempt such sectors or segments from competition authority oversight in recognition that competing beyond Hong Kong’s physical territory in a globalised market place may create conflict regarding local market dominance.

With best wishes

A handwritten signature in black ink, appearing to read "Alfred Chan".

Alfred W K Chan  
Managing Director

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