



Business and Professionals  
Federation of Hong Kong  
香港工商專業聯會

*By Fax & By Mail*

5 February 2007

The Hon Stephen S K Ip, GBS, JP  
Secretary for Economic Development and Labour  
Economic Development and Labour Bureau  
Government of the HKSAR

Dear Mr Ip,

We enclose herewith a BPF response to the HKSAR Government Consultation Document "Promoting Competition – Maintaining our Economic Drive" for consideration.

Should you require further information, please do not hesitate to contact me

Yours sincerely,

Connie Hui  
Secretary General



**Business and Professionals Federation of Hong Kong ("BPF")**  
**Submission on public consultation on**  
**"Promoting competition – maintaining our economic drive"**

In connection with the public consultation on the way forward for competition policy in Hong Kong, the BPF submits its views on the following key issues.

*The need for a new competition law*

- To enhance the effectiveness of our competition policy, the BPF supports the introduction of a cross-sector competition law to provide the legal basis for the investigation and sanctioning of anti-competitive conduct. The gains derived from the introduction of legislative provisions in the telecommunications and the broadcasting markets have demonstrated the usefulness of such an approach in the enforcement of our competition policy. In the absence of appropriate statutory powers and procedures, the implementation of a competition policy would be inhibited.

*Sector coverage of the new competition law*

- As regards the extent of a new competition law, we are of the view that it should extend to all sectors of the economy as opposed to only targeting a limited number of sectors. Anti-competitive conduct could occur in any sector and as such, our competition policy should apply equally across the board to the whole economy. Where it is considered that a particular sector has its own unique characteristics that could not be satisfactorily addressed by the cross-sector legislation, additional sector specific subsidiary legislation could be considered. Following this rationale, the BPF supports the retention of the current sector specific regimes in broadcasting and telecommunications after the introduction of a new cross-sector law.

*Scope of the new competition law*

- We consider the better approach is for the new law to set out a general prohibition against anti-competitive conduct and to supplement this with non-statutory guidance notes (cf. the Buildings Ordinance). This approach should maintain a balance between the need for certainty for businesses and the impractical consequence of frequent



legislative amendments where the law aims at providing detailed and comprehensive definitions of anti-competitive behaviours. A general approach makes even more sense in the event that the legislation is to be applicable to all sectors.

*Regulatory framework:*

*We do not wish to see a statutory juggernaut supported by an army of bureaucrats.*

- Of the three main options for the establishment of a regulatory mechanism for the enforcement of a new competition law, we are on balance in favour of Option One (a single authority with power to investigate and adjudicate) with an appeal mechanism as an effective check on its authority.
- We see the merits of the appeal mechanism being handled by a specialist tribunal to centralise expertise in one body and to ensure consistency of judgements.
- To provide a further check on a single authority, we support a "two-tier" structure whereby the full-time executive team would be placed under the supervision of a management board made up of individuals from within the community. This would also provide a balance between the professional technical knowledge of the executive team with the "reasonable-man" view of a cross-section of the community.
- Option One would enable its Government to extend the scope of operation of the Consumer Council instead of the need to set up a new statutory body.

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