

香港的公平競爭政策的路向

本公司/機構/本人*(請刪去不適用者)贊成以下的觀點：

1. 香港一向都沒有競爭法，卻能造就自由並充滿競爭、運作良好的市場，取得有目共睹的經濟成就。事實證明，保持市場的自由開放性就是公平競爭最大的保障，亦最能維護消費者的利益。
2. 訂立全面性競爭法會減低營商的靈活性，削弱業界特別是中小企業適應環境變化的能力，反而不利於自由市場競爭。引入法庭的干預，只會令營商環境複雜化、僵化，導致企業營運上升，最終亦無助於提升工商界和消費者的利益。
3. 跨行業競爭法並不能有效遏止少數行業裡的壟斷現象和隱含性的反競爭行為；卻可能會「殺錯良民」，令中小企業備受困擾，甚至淪為大企業壓制中小型業者的「合法」工具。
4. 業界不願看到競爭法成為影響營商環境、削弱中小企業競爭力的人為障礙，希望政府審慎處理，三思而後行。
5. 如果立法主要是為了回應社會對特定領域內反競爭行為的關注，則訂立行業性的競爭法會更為奏效和更切實際。在建制方面，本港亦可考慮強化現有的競爭政策諮詢委員會，使之發揮更大作用、更貼近社會的訴求、以及具有更高的透明度。
6. 其他(請注明) 請見下兩頁

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6. It is crystal clear that any general competition law will not work for all trades and businesses.

Firstly, we must ask ourselves, why are we discussing "competition law" at all? Is this political driven – summoned by our motherland or derived from task force of the HKSAR Government?

Secondly, would we be better or worse off with the establishment of such law.

- ◆ HK has been voted the freest economy in the world for the last several years. Were there wide spread unfair competition in all walks of life, what is "unfair"?
- ◆ Nothing is fair in this world, companies are not set in equal footing. Competition laws, like medicine, must be targeted to the problem area, otherwise, it may do more harm than good, wasting time, money and resources and prolonging the illness.
- ◆ As long as competition is within the legal boundary (rules of the games), it should be allowed. With the Consumer Council, ICAC and the media, there are multi-ways for people to raise issues and concerns. If the problem is serious, there are no hiding. Obviously, fraud and foul plays are criminal offences and already covered by the law. There may be uncovered areas but would the competition law make this any easier to proof in courts?
- ◆ HK is populated but a very small city and a majority of SME are export orientated. There are simply no room for intense competition in some trades.
- ◆ Some propose that if such laws are passed, SME should be exempted. If this is the case, why draft the law at all. Majority of the companies in HK are SME and some of these will grow and become a major force in their respective trade/industry, their growth will then be hinder?
- ◆ If there are multi-nationals or electricity companies fighting for market share in HK, this could do more harm than good. Intense unhealthy competition (created by "fair play"), may rattle a stable economy. Safety and quality come with a price. A monopoly or a close-end market is best regulated by the Government.
- ◆ Petrol is expensive but a lot of it is due to heavy taxes. Thus if price is of concern, a lower duty will solve this issue. However, costly petrol and other taxes are required to prevent too many cars on the road. HK is small and air quality is poor. HK has one of the best public transport system in the world thus private car ownership is not a necessity but a luxury item.

Summary

A general Competition law is unnecessary, but the Government should set up a regulatory framework for the selected few industries.