



29/01/2007 00:49

To competition@edlb.gov.hk

cc

bcc

Subject Submission for the Competition Policy document

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Sir/Madam,

I write to voice my support for the proposal of introducing a competition law in Hong Kong .

The proposal of having a competition policy framework that covers all sectors deserves support because this is the only way to ensure fair and open competition . Often, anti-competition behaviour manifests itself through cross -industry manipulation . In any case, any industry that wants exemption from the law needs to justify its exceptional status .

I support the approach of not dealing with the market concentration issue at this stage . Sometimes, the contestability of a market, rather than the presence of many competitors, may be sufficient to establish competition . Sometimes it may be more efficient just to have a few, or even one or two firms supplying a market . We should, therefore, focus on anti-competition behaviour .

The law should not require any extra compliance cost, such as periodic submission of information . If so, there will not be any compliance cost beyond avoiding anti -competition behaviour . There should be no periodic reporting to do . Only when there is a complaint against a corporation will there be a need for that corporation to supply information to the law enforcement agency .

I am of the view that anti -competition behaviour should be defined as clearly as possible, rather than just spelling out in broad terms what is meant by anti-competition and then letting the courts to decide if a particular behaviour is anti -competition or not .

Punishment should be in the form of a fine that is sufficiently large to serve as a deterrent . Ideally, people know what kind of behaviour is prohibited and realize that it pays to avoid such behaviour, so that there will not be any case of complaint that needs to be resolved in courts .

This is the way to reduce administrative cost .

I hope that the law enforcement agency in charge of competition law will be as lean as possible . Otherwise the agency may try to justify its existence by pursuing tasks that will prove disruptive to business and wasteful of resources .

Prof. Lok Sang HO
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