



05/02/2007 18:18

To competition@edlb.gov.hk

cc

bcc

Subject Submission to Consultation on Competition Policy

Urgent  Return receipt  Sign  Encrypt

Dear Sir/ Madam,

Please find attached for your kind reference submission by Metro Broadcast Corporation Limited in response to the captioned Consultation. Should you require further information, please do not hesitate to contact the undersigned on

Sincerely,

Katherine Kwok  
Deputy Director - Compliance & Operations  
Metro Broadcast Corporation Limited

**Submission by**

**Metro Broadcast Corporation Limited**

**On the**

**Consultation Paper on Proposed Competition Policy in Hong Kong**

Metro Broadcast Corporation Limited ('Metro Broadcast') welcomes the opportunity to participate in the public consultation on the Government's proposed Competition Policy in Hong Kong.

Hong Kong is best known for its adoption of the "laissez-faire" policy upon which its economical success is grounded. The Hong Kong economy has always strived to encourage free trade and avoid government control and intervention. In this connection, the proposed introduction of a general competition law should warrant careful assessment with regard to particularly the need for such economic regulations and its impact on the operation of business in Hong Kong as a whole.

In the consultation paper, it was brought out that telecommunications and broadcasting are the only two business sectors having legislation which contains competition provisions. As part of the broadcasting industry, Metro Broadcast is pleased to see the non-existence of anti-competition conducts in the market. It is notable that, however, the healthy competition in broadcasting may not be attributed solely to the fact that it is regulated. The broadcasting industry has the characteristic of free entry, subject to fulfilment of requirements set forth by the Government and availability of spectrum. These are, in the first place, factors uncontrollable by any existing industry players. Secondly, the "real" customers of any broadcasters are indeed the advertisers whose decision making is based upon ratings of the programmes broadcast. Rating in this context is translated into the number of audience viewing/ listening to the concerned programme and therefore represents how attractive a certain programme is to the audience. Therefore the focus is on quality of programmes and a valid example is pay TV subscription by an average audience to get the types of programmes that are deemed insufficient on free terrestrial TV. In other words, even in circumstances with only one broadcaster in operation, if the programmes are not appealing, the audience will not tune in and advertisers are not going to spend money on a medium that does not sell. Competition in the broadcasting industry is in fact affected by its business nature to a very large extent

rather than the operation of law.

As far as the regulations are concerned, apart from the provisions on free competition stipulated in the Sound Broadcasting Licence, the Telecommunications Ordinance (Cap. 106) also provides for cross media ownership control against sound broadcasting licensees. Similarly, domestic free and domestic pay television programme service licensees are subject to the same “disqualified person” provision under the Broadcasting Ordinance (Cap. 562). This restriction exists with an aim to minimise conflict of interest, build-up of monopoly of the media and editorial uniformity. The applicability of such regulations, however, is unique and clearly limited to the media industry with a concept hardly extendable to global trade and businesses.

With reference to the other business sectors in Hong Kong, there has always been free competition. Having considered the broadcasting experience above mentioned, the existence and application of a competition law may not be significantly related to a successful market free from anti-competition conducts. On the other hand, the proposed introduction of new economic regulations of a general competition law may pose serious impact to the economy with both operational and commercial implications. Operationally, for instance, entrepreneurs be it big or small may find their hands tied and creativity jeopardised by fear of breaking of the relevant law.

We appreciate Governments’ consideration of our views in the discussion of the proposed introduction of a general competition law.