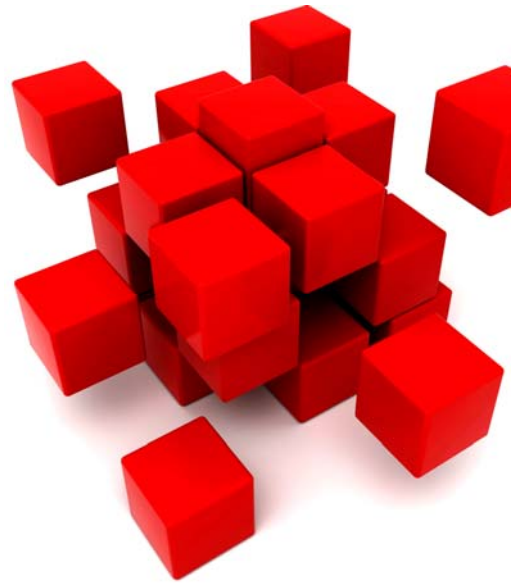


ALLEN & OVERY

Update on the new Hong Kong Competition Ordinance

December 2012

The Competition Ordinance (the **Ordinance**), Hong Kong's first cross-sector competition law, was enacted in **June 2012** (click [here](#) to see our previous client update for details). At the time of enactment, no formal date was set for its implementation but indications were that the Competition Commission (the **Commission**) and the Competition Tribunal (the **Tribunal**) would be established, and the guidelines providing details to the Ordinance would be published within 12 months.



On **23 November 2012**, the Hong Kong Government announced two important effective dates for some (but not all) of the provisions of the Ordinance:

18 January 2013:

- Provisions affecting the establishment, functions, powers and administrative matters e.g. composition, operation, officers, meetings, financial information and accounts of the Commission, which will essentially be responsible for the investigation and public enforcement of the competition law
- Provisions obliging the Commission to issue guidelines on:
 - how the Commission will interpret and give effect to the competition rules
 - how the Commission will receive an application for a decision or block exemption order
 - how the Commission will exercise its power to make a decision or grant block exemptions
 - how complaints can be made under the Ordinance
 - the procedures for the Commission in deciding whether or not to conduct any investigation
 - the procedure for the Commission in conducting any investigation
- Provisions on the handling of confidential information
- Provisions dealing with determination of turnover of undertaking, fees chargeable by the Commission, personal immunity of public officers and service of documents

1 August 2013:

- Other provisions concerning the establishment, constitution, jurisdiction, powers, practices and procedures of the Tribunal, which will essentially be responsible for hearing and adjudicating competition cases brought by the Commission, reviewing certain determinations of the Commission and dealing with follow-on actions.

Effective dates for all other provisions (importantly those highlighted below) have yet to be appointed:

- the general prohibition against anti-competitive agreements, concerted practices and decisions of associations
- the prohibition against the abuse of substantial market power in the market
- the prohibition against mergers that have the effect of substantially lessening competition in Hong Kong (limited to mergers involving holders of carrier licenses under the Telecommunications Ordinance)

If you require advice on any matter raised in this bulletin, please contact any of our lawyers or your usual contact at Allen & Overy.



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