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For Immediate Release

Competition Commission advises on Trade Associations' membership admission rules

The Competition Commission (Commission) today (29 July) published an Advisory Bulletin to advise on the potential risks under the Competition Ordinance (Ordinance) related to the membership admission criteria and procedures of trade associations¹. The bulletin applies to all trade, sporting, professional and industry associations or bodies (collectively “trade associations”) and their members in Hong Kong. Together with the bulletin, the Commission also published a set of frequently asked questions with a number of hypothetical scenarios to further elaborate on the subject.

Trade associations have a significant role in Hong Kong's economy. By developing industry standards and best practices, providing training to members and promoting their industry's interests, their activities bring benefits to their members and have a positive impact on the Hong Kong economy. However, in certain circumstances, some of their practices may give rise to competition concerns under the Ordinance, and one area of concern lies with certain membership admission criteria and procedures adopted by trade associations.

Advice on the admission criteria and admission procedures of trade associations

Where membership of a trade association is an essential pre-condition for competing in a market, exclusion from membership can significantly impact an undertaking's effectiveness as a competitor. In these circumstances, anti-competitive conduct such as unreasonable and unjustifiably strict membership criteria or procedures may be especially damaging.

For example, exclusion from membership may deprive a business or individual of the accreditation, government subsidies or other advantages which are available only to members. In the case of sports, membership of a sporting association may entitle its members access to certain sporting facilities or participation in international sports events such as the Olympic Games.

As such, trade associations should ensure that their rules for admission serve only to safeguard the quality and standards of the trade, profession, sporting or other activities they deal with. They should admit any business or individual which meets the admission criteria and complies with the admission procedures.

¹ “Trade associations” are defined broadly and include, but are not limited to trade, sporting, professional and industry associations/bodies.

Towards this end, the Commission's Guideline on the First Conduct Rule sets out that the rules for admission to membership of a trade association should be:

- (a) transparent;
- (b) proportionate;
- (c) non-discriminatory;
- (d) based on objective standards; and
- (e) subject to appeal in the event of a refusal to admit a party to membership.

The Commission may view rules for admission which do not satisfy the above requirements as having the object or effect of harming competition. Further elaboration on these requirements is provided in the Advisory Bulletin.

Mr. Rasul Butt, Chief Executive Officer of the Commission, said, "Trade associations have an immense positive impact on the Hong Kong economy. However, as associations facilitate interaction between competitors, they must be careful not to be a source of, or provide support for, anti-competitive arrangements. It is also important to note that where members of a trade association which are undertakings make or give effect to an anti-competitive decision of the trade association, both the members and the association may incur liability under the Ordinance.

In the course of its investigatory work, the Commission has encountered situations where trade associations have admission criteria and procedures in place which raise concerns under the Ordinance. The Commission is publishing guidance today to raise public awareness of how the Ordinance applies to trade associations and their members, with a focus on membership admission rules and practices which should aim at offering a level-playing field for all competitors in the relevant industry."

Actions advised

The Commission calls on all trade associations to actively review their admission practices in accordance with the guidance and to make changes where needed to ensure compliance with the Ordinance. Where the Commission has reasonable cause to suspect that conduct contravening the Ordinance has taken place, it will take the appropriate enforcement action.

Parties which have information about anti-competitive practices of a trade association or its members are encouraged to report them to the Commission at 3462 2118 or complete an [online form](#)² on the Commission's website www.compcomm.hk. Those who might have already engaged in such practices can approach the Commission for leniency.

² Other means of reporting are listed on the Commission's website.