29 November 2012

Last Friday, the Hong Kong government announced that parts of the recently enacted Competition Ordinance will come into operation as early as January 2013. The relevant parts provide for the establishment of the Competition Commission and publication of guidelines for enforcement. Further provisions relating to the establishment of the Competition Tribunal will come into operation in August 2013.

The Competition Ordinance was enacted in June 2012 and is expected to come into full effect in early 2014.

January 2013

The main provisions coming into operation on 18 January 2013 cover:

- The Competition Commission's power and duty to issue guidelines generally and specifically, guidelines in relation to the making of complaints and the conduct of investigations;
- The establishment of the Competition Commission, its powers, functions and obligations, and other administrative provisions;
- The merger provisions (which cover only the telecommunications industry);
- The publication of regulations for the determination of the turnover of an undertaking, which will be key for calculating the fines to be imposed for breach of the Competition Ordinance.

August 2013

The provisions set to come into operation on 1 August 2013 will allow the Competition Tribunal to be established. The provisions setting out its jurisdiction, powers and practice and procedures will also come into effect.

Impact on business

Last Friday's notice may come earlier than many observers had expected. Its publication is an indication that competition law remains a policy focus of the Hong Kong government, despite the arrival of a new Chief Executive.
Hence, businesses should continue preparing themselves to respond to the new law and take early action to conduct an assessment of their practices and identify any potential risks.

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