

Revolt looms over competition law

Pan-democrat says camp will review their support for proposed anti-monopoly legislation, after government makes concessions to business lobby

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The government risks losing the support of pan-democratic lawmakers for its embattled competition bill after yesterday announcing concessions to make the proposed legislation more acceptable to business.

Six changes have been made to the bill in response to concerns raised by the business sector, but at least three of the four major chambers said they were still not satisfied.

However, the dilutions have prompted Civic Party legislator Ronny Tong Ka-wah - a core member of the 23-vote pan-democratic camp - to reconsider his support for the bill, which aims to curb anti-competitive behaviour and provide a level playing field for companies in Hong Kong.

"I am surprised and disappointed at the concessions, which will drastically reduce the effectiveness of the bill," said Tong, vice-chairman of the Legco committee scrutinising the bill. "I need a rethink of our stance, which used to be solid support."

The pan-democrats plan to meet Secretary for Commerce and Economic Development Greg So Kam-leung today to discuss the bill.

So said the government had made the concessions in the hope of speeding up Legco's vetting of the bill, which is seriously behind schedule to meet a hoped-for vote next July.

"We hope to be able to address the business concerns, in particular those of the SMEs, while maintaining the integrity and effectiveness of the bill," said So, who on Tuesday will brief the Legco committee on the amendments.

Tong was most alarmed that the government had cut the proposed maximum penalty - from 10 per cent of global turnover for the entire period of anti-competitive behaviour to 10 per cent of Hong Kong turnover for a maximum of three years. He also decried the watering-down of payments that businesses would have to make for lesser infractions.

Another change took away the right of individuals and companies to lodge complaints of anti-competitive behaviour directly with the proposed competition tribunal.

Previously, they could go either to the tribunal or the proposed competition commission. Now, they can complain only to the commission, which will refer cases to the tribunal. The commission is an administrative body; the tribunal is a court.

Other changes include the introduction of a warning notice for non-serious anti-competitive agreements, such as restrictions on advertising and collective refusal to supply goods; setting a market threshold to protect small businesses; and excluding mergers from two conduct rules - concerted practices and abuse of substantial market power. But no companies will be treated leniently if they have infringed any one of four key rules, including price-fixing and market-sharing.

Three major chambers, including the General Chamber of Commerce and the Chinese Manufacturers' Association, welcomed the changes, especially the deletion of the provisions for private lawsuits. But they said the threshold of HK\$100 million for non-serious anti-competitive agreements was too low to offer protection for small businesses.

A government source said there would be a review of the law "a few years after its implementation" and would not rule out that the right to file private litigation could be reinstated at that time.

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