

# Competition Policy in Hong Kong

Edward Whitehorn

Head, Competition Affairs Branch

Office of the Telecommunications Authority

# Sectoral Approach

- Competition law currently in telecommunications and broadcasting sectors
- Competition Policy Advisory Group to oversee and review competition issues across the whole economy

# Telecoms Sector

- Competition law enacted in June 2000
- Prohibitions against
  - ◆ anti-competitive conduct
  - ◆ abuse of a dominant position
  - ◆ misleading or deceptive conduct
  - ◆ discrimination

# Hong Kong Competition Law

- Based on Articles 81 and 82 of the EU regime
- Test is whether the conduct “has the purpose or effect of preventing or substantially restricting competition”
- Applies only to licensees
- Similar provisions in the operators’ licences

# Enforcement

- Powers vested in the Telecommunications Authority (TA)
- TA can issue directions addressed to the parties
- TA can impose financial penalties

# Appeals

- Decisions, directions etc of the TA can be challenged before an Appeal Board
- Appeal Board consists of legally qualified chair person plus two lay members
- Hearing on the merits

# Proposed Mergers and Acquisitions Regime

- Currently being debated in the Legislative Council
- *Ex-poste* regulation
- Will only apply to carrier licensees

# Draft Law

- Test is whether the merger “has, or is likely to have, the effect of substantially lessening competition”
- Applies to changes of control or beneficial ownership of voting shares, or voting control
- Change of control if, *inter alia*, acquirer has more than 15% of voting shares
- Decision made by the TA

# Application for Prior Consent

- Parties can ask TA to consider proposed merger
- TA can give consent, refuse consent or impose conditions
- Provision for TA to charge fees

# Other Features

- Time limits not yet decided
- Guidelines to be published after consultation exercise
- Appeals to the Appeal Board

**Thank you**