



## Competition Law Association

British Group of the  
Ligue Internationale du Droit de la Concurrence  
(International League for Competition Law)

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### Hong Kong Competition Law- Recent Developments and Looking Ahead

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#### Introduction

The consultation process in relation to the Competition Ordinance (the **Ordinance**) began in 2006. The law in relation to it was passed in 2012 following which the Ordinance took effect in 2015.

To date, some matters have been investigated by the Hong Kong Competition Commission (the **Commission**) and judgments are awaited in the cases that have been brought to court.

#### The Ordinance

The Ordinance contains three main rules:

- the first conduct rule (largely based on Article 101 TFEU);
- the second conduct rule (largely based on Article 102 TFEU); and
- the merger rule which at present only applies to the telecoms sector.

#### Peculiarities of the Ordinance

Kelvin has explored a number of 'peculiarities' of the Ordinance, which are examined in greater detail in the following article published in World Competition ([https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2524763](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2524763)). These peculiarities include:

- the lack of cross-sector merger control
- the 'substantial market power' requirement under the second conduct rule
- the 'object or effect' test under the second conduct rule
- the turnover *de minimis* thresholds
- warning notices
- the judicial enforcement model and restrictive private actions
- the capping of fines at 10% of local turnover.