

**L.N. 155 of 2015**

## **Competition (Fees) Regulation**

(Made by the Chief Executive under section 164 of the Competition Ordinance (Cap. 619) after consultation with the Executive Council)

### **Part 1**

#### **Preliminary**

##### **1. Commencement**

This Regulation comes into operation on the day appointed for the commencement of Part 11 of the Competition Ordinance (Cap. 619).

##### **2. Interpretation**

(1) In this Regulation—

*specified amount* (指明款額), in relation to a specified application, means the amount specified in column 3 of the Schedule opposite that application;

*specified application* (指明申請) means an application described in column 2 of the Schedule.

(2) In this Regulation, a reference to the Commission does not include the Communications Authority.

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## Part 2

### Fees Payable for Specified Applications

#### 3. Fee payable for specified application to Commission

- (1) For every specified application made to the Commission, the applicant must pay a fee of the specified amount to the Commission when the applicant makes the application.
- (2) The Commission is to refund the fee paid for the specified application if the Commission declines to consider the application.
- (3) The Commission may, in its discretion, reduce, waive or refund, in whole or in part, a fee payable or paid to the Commission in a particular case.
- (4) This section has effect subject to section 4.

#### 4. Paid fee refundable if specified application transferred to Communications Authority

If a specified application made to the Commission is transferred to the Communications Authority under section 160 of the Ordinance—

- (a) the Commission is to refund to the applicant any fee paid under section 3 for the application; and
- (b) a fee is payable for the application in accordance with section 5 as if the application were made to the Communications Authority.

**5. Fee payable for specified application to Communications Authority**

- (1) For every specified application made to the Communications Authority for it to perform a function falling within section 159 of the Ordinance, the applicant must pay a fee to the Communications Authority.
- (2) The amount of the fee—
  - (a) is equal to the costs and expenses incurred by the Communications Authority in making a decision on the specified application or in relation to the processing of the application; but
  - (b) must not exceed the specified amount.
- (3) On receipt of a notice given by the Communications Authority of the amount of the fee payable, the applicant must pay the fee to the Communications Authority by the time specified in the notice.
- (4) No fee is payable to the Communications Authority for a specified application if the Communications Authority declines to consider the application.
- (5) This section has effect subject to section 6.

**6. Fee payable if specified application transferred to Commission**

If a specified application made to the Communications Authority is transferred to the Commission under section 160 of the Ordinance—

- (a) the fee referred to in section 3 is payable to the Commission by the time specified in a notice given by the Commission to the applicant after the transfer; and

## Competition (Fees) Regulation

Part 2  
Section 6

L.N. 155 of 2015  
B2557

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- (b) the fee referred to in section 5 is not payable for the application.
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**Schedule**

[s. 2]

**Specified Amount for Specified Application Made to  
Commission or Communications Authority**

Column 1	Column 2	Column 3
Item	Description	Amount
1.	Application under section 9(1)(a) of the Ordinance for a decision as to whether an agreement is excluded from the application of the first conduct rule by or as a result of section 1 of Schedule 1 to the Ordinance.	\$100,000
2.	Application under section 9(1) of the Ordinance for a decision as to one of the following—	\$50,000
	(a) whether an agreement is excluded from the application of the first conduct rule by or as a result of Schedule 1 to the Ordinance (except section 1 of that Schedule);	
	(b) whether an agreement is exempt from the application of the first conduct rule by virtue of a block exemption order issued under section 15 of the Ordinance;	

## Competition (Fees) Regulation

Schedule

L.N. 155 of 2015  
B2561

Column 1	Column 2	Column 3
Item	Description	Amount
	<ul style="list-style-type: none"> <li>(c) whether an agreement is exempt from the application of the first conduct rule by virtue of an order made under section 31 or 32 of the Ordinance;</li> <li>(d) whether an agreement is excluded from the application of Part 2 of the Ordinance by virtue of section 3 or 4 of the Ordinance.</li> </ul>	
3.	Application under section 15 of the Ordinance for the issue of a block exemption order in respect of a particular category of agreement.	\$500,000
4.	Application under section 24 of the Ordinance for a decision as to one of the following— <ul style="list-style-type: none"> <li>(a) whether certain conduct is excluded from the application of the second conduct rule by or as a result of Schedule 1 to the Ordinance;</li> <li>(b) whether certain conduct is exempt from the application of the second conduct rule by virtue of an order made under section 31 or 32 of the Ordinance;</li> </ul>	\$50,000

Competition (Fees) Regulation

Schedule

L.N. 155 of 2015  
B2563

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Column 1	Column 2	Column 3
Item	Description	Amount
	(c) whether certain conduct is excluded from the application of Part 2 of the Ordinance by virtue of section 3 or 4 of the Ordinance.	
5.	Application under section 11 of Schedule 7 to the Ordinance for a decision as to one of the following— (a) whether a merger is, or a proposed merger would (if completed) be, excluded from the application of the merger rule by or as a result of section 8 of that Schedule; (b) whether a merger is, or a proposed merger would (if completed) be, excluded from the application of that Schedule by virtue of section 3 or 4 of the Ordinance.	\$500,000

C. Y. LEUNG  
Chief Executive

14 July 2015

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### **Explanatory Note**

This Regulation is made under section 164 of the Competition Ordinance (Cap. 619) (*Ordinance*) for prescribing the amount of the fees payable for applications to the Competition Commission (*Commission*) or the Communications Authority when the latter performs the functions of the Commission under section 159 of the Ordinance.

2. The applications are—
  - (a) an application for a decision—
    - (i) about the application of the first or second conduct rule or Part 2 of the Ordinance; or
    - (ii) about the application of the merger rule or Schedule 7 to the Ordinance; and
  - (b) an application for the issue of a block exemption order.