## Contents

Foreword		V
Preface		vii
Table of Cases		xvii
Table of Legisla	ation	xxvii
Long title		1
PART 1	PRELIMINARY	
Section 1	Short title	3
Section 2	Interpretation	4
Section 3	Application to statutory bodies	8
Section 4	Application to specified persons and persons engaged in specified activities	11
Section 5	Regulations	12
PART 2	THE CONDUCT RULES	
Section 6	Prohibition of anti-competitive as teements, concerted practices and decisions	17
Section 7	"Object" and "effect" of agreement	41
Section 8	Territorial application of first conduct rule	49
Section 9	Application for decision	52
Section 10	Consideration of application	54
Section 11	Decision by Commission	56
Section 12	Effect of decision	57
Section 13	Non-compliance with condition or limitation	58
Section 14	Rescission of decision	59
Section 15	Block Exemption Orders	61
Section 16	Procedure regarding Block Exemption Orders	67
Section 17	Effect of Block Exemption Order	68
Section 18	Non-compliance with condition or limitation	69
Section 19	Review of Block Exemption Order	70
Section 20	Variation or revocation of block exemption order	72
Section 21	Abuse of market power	74
Section 22	"Object" and "effect" of conduct	101
Section 23	Territorial application of second conduct rule	104
Section 24	Application for decision	104

Section 25	Consideration of application	107
Section 26	Decision by Commission	108
Section 27	Effect of a decision	109
Section 28	Non-compliance with condition or limitation	110
Section 29	Rescission of decision	110
Section 30	Exclusions	113
Section 31	Exemptions on Public Policy Grounds	114
Section 32	Exemption to avoid conflict with international obligations	115
Section 33	Orders to be published and placed before Legislative Council	117
Section 34	Register of decisions and block exemption orders	119
Section 35	Guidelines	121
Section 36	Amendment of Schedule 1	126
PART 3	COMPLAINTS AND INVESTIGATIONS	
Section 37	Complaints	127
Section 38	Guidelines regarding complaints	131
Section 39	Power to conduct investigations	133
Section 40	Guidelines regarding investigation	138
Section 41	Powers to obtain documents and information	140
Section 42	Persons may be required to attend before Commission	144
Section 43	Statutory declaration regarding evidence	147
Section 44	Immunity	148
Section 45	Self-incrimination Self-incrimination	151
Section 46	Obligation of confidence	154
Section 47	Appointment of authorized officers	155
Section 48	Warrant to enter and search premises	156
Section 49	Duty to produce evidence of authority	160
Section 50	Powers conferred by a warrant	161
Section 51	Interpretation	165
Section 52	Failure to comply with requirement or prohibition	165
Section 53	Destroying or falsifying documents	168
Section 54	Obstruction of search	169
Section 55	Providing false or misleading documents or information	171
Section 56	Retention of property	172
Section 57	Disposal of property	173
Section 58	Legal professional privilege	175
Section 59	Guidelines	175

ART 4	ENFORCEMENT POWERS OF COMMISSION	
ection 60	Commitments	177
ection 61	Withdrawal of acceptance of commitment	180
ection 62	Variation, substitution and release of commitment	182
ection 63	Enforcement of commitment	184
ection 64	Register of commitments	186
ection 65	Procedural requirements regarding commitments	187
ection 66	Interpretation	188
ection 67	Commission may issue infringement notice	189
ection 68	Person not obliged to make commitment	192
ection 69	Contents of infringement notice	193
ection 70	Notice of proposal to issue infringement notice	194
ection 71	Decision not to issue infringement notice	195
ection 72	Effect of issue of infringement notice	196
ection 73	Withdrawal of infringement notice	196
ection 74	Extension of compliance period	197
ection 75	Effect of commitment to comply with requirements of	
	infringement notice	198
Section 76	Failure to comply with requirements of infringement notice	198
Section 77	Registration of commitments	199
Section 78	Publication of infringement notice	199
Section 79	Interpretation	200
Section 80	Commission may make leniency agreements	200
Section 81	Termination of leniency agreement	204
Section 82	Warning notices	208
PART 5	REVIEW BY TRIBUNAL	
Section 83	Interpretation	213
Section 84	Review of reviewable determination	214
Section 85	Who may apply for review	217
Section 86	Tribunal may state case for Court of Appeal	218
Section 87	Decision of Tribunal on application for review	220
Section 88	Time limit for applying for review	220
Section 89	Stay of execution of reviewable determination	221
PART 6	ENFORCEMENT BEFORE TRIBUNAL	
Section 90	Interpretation	223
Section 91	Persons involved in contravention of competition rule	223

nto	

Section 92	Commission may apply for pecuniary penalty	228		Section 121	Commission may participate in proceedings	278
Section 93	Tribunal may impose pecuniary penalty	230		PART 8	DISCLOSURE OF INFORMATION	
Section 94	Other order of Tribunal	234		Section 122	Interpretation	281
Section 95	Interim orders	236		Section 123	Confidential information	283
Section 96	Order to pay costs of Commission investigation	238		Section 124	Duty to establish and maintain safeguards	285
Section 97	Proceedings in relation to anticipated mergers	240		Section 125	Preservation of confidentiality	286
Section 98	Interim orders	242		Section 126	Disclosure with lawful authority	290
Section 99	Application to Tribunal for orders	243		Section 127	Notice of proposed disclosure	293
Section 100	Proceedings in relation to mergers	245		Section 128	Obligation of third party not to disclose	
Section 101	Disqualification order	245		Section 120	confidential information	295
Section 102	Circumstances in which disqualification order may be made	249		DADT 0	COMPETITION COMMISSION	
Section 103	Unfitness to be concerned in management of company	250		PART 9		207
Section 104	Applications for disqualification order and for			Section 129	Establishment of Commission	297
	leave under an order	251		Section 130	Functions of Commission	298
Section 105	Contravention of disqualification order	251		Section 131	Powers of Commission	301
PART 7	PRIVATE ACTIONS			Section 132	Commission not servant or agent of Government	302
Section 106	Interpretation	254	A1	Section 133	Personal immunity of members of Commission etc	303
Section 107	Persons involved in contravention of conduct rule	254		PART 10	COMPETITION TRIBUNAL	
Section 108	No proceedings independent of this Ordinance	255		Section 134	Establishment of Tribunal	305
Section 109	Pure competition proceedings not to be brought in			Section 135	Constitution of Tribunal	305
	Court of First Instance	257 258		Section 136	President	306
Section 110	Follow-on right of action	258		Section 137	Deputy President	308
Section 111	Commencement of follow-on actions	261		Section 138	Acting President	308
Section 112	Tribunal orders in follow-on actions	263		Section 139	Resignation as President or Deputy President	309
Section 113	Transfer of proceedings from Court of First			Section 140	Vacancy in office of President or Deputy President	310
	Instance to Tribunal	264		Section 141	Assessors	310
Section 114	Transfer of proceedings from Tribunal to			Section 142	Jurisdiction of Tribunal	312
C : 44F	Court of First Instance	270		Section 143	Powers of the Tribunal	312
Section 115	No further transfer of proceedings from Court of First Instance to Tribunal	272		Section 144	Procedures	314
Section 116	No further transfer of proceedings from Tribunal to	212		Section 145	Hearing and determination of applications	310
Section 110	Court of First Instance	273		Section 146	Absence of member during course of proceedings	317
Section 117	Costs in transferred proceedings	273		Section 147	Rules of Evidence	318
Section 118	Reference by Court of First Instance or	213		Section 148	Evidence that might tend to incriminate	319
	Tribunal to Commission for investigation	274		Section 149	Findings of fact by Tribunal	320
Section 119	Findings of contravention of conduct rules	276		Section 150	Finding of facts by Court of First Instance	32
Section 120	Intervention by Commission	277		Section 151	Order not to disclose material	32

Section 151A	Order prohibiting departure from Hong Kong	322
Section 151B	Duration and discharge of prohibition order	325
Section 151C	Contravention of a prohibition order	327
Section 152	Decisions of the Tribunal	328
Section 153	Orders of the Tribunal	328
Section 153A	Interest on Debts and Damages	328
Section 153B	Interest on judgment debts	330
Section 154	Appeal to the Court of Appeal	330
Section 155	Leave to appeal required for interlocutory appeals	332
Section 155A	Enforcement by Tribunal of payment of penalties and fines	334
Section 156	Registrar and other staff of Tribunal	335
Section 156A	Jurisdiction and powers of Registrar of Tribunal	335
Section 156B	Jurisdiction and powers of deputy registrar of Tribunal	336
Section 156C	Jurisdiction and powers of temporary registrar of Tribunal	337
Section 156D	Protection of Registrar of Tribunal	338
Section 156E	Registrar of Tribunal may apply to Tribunal for order	339
Section 157	Seal of Tribunal	339
Section 157A	Reimbursement of witness expenses	340
Section 158	Tribunal rules	341
Section 158A	Suitors' Funds Rules	342
PART 11	CONCURRENT JURISDICTION RELATING TO TELECOMMUNICATIONS AND BROADCASTING	Na
Section 159	Concurrent jurisdiction with Communications Authority	345
Section 160	Transfer of competition matter between competition authorities	348
Section 161	Memorandum of Understanding	349
PART 12	MISCELLANEOUS	
Section 162	Merger	353
Section 163	Determination of turnover of undertaking	353
Section 164	Fees	355
Section 165	Personal immunity of public officers	356
Section 166	Service of documents on Commission	357
Section 167	Service of documents other than on Commission	358
Section 168	Certain indemnities of officers, employees or agents void	361
Section 169	Financial penalty for contravention of section 168	362

Section 170	Provision of funds for indemnity for	
	defending proceedings	363
Section 171	Criminal proceedings not to be brought in Tribunal	364
Section 172	Provision of false information	365
Section 173	Employees not to suffer termination etc for	367
	assisting Commission	369
Section 174	Obstruction of specified persons	
Section 175	Offences by bodies corporate and partners	371
Section 176	Omitted as spent—E.R. 1 of 2016	372
Section 177	Transitional and savings provisions in relation to amendments made by this Ordinance	372
Schedule 1	General exclusions from conduct rules	375
Schedule 2	Commitments	389
Schedule 3	Orders that may be made by Tribunal in	395
	relation to contravention of competition rules	373
Schedule 4	Provisions that may be contained in orders made by Tribunal in relation to anticipated mergers and mergers	399
Schedule 5	Competition Commission	401
Schedule 6	Matters that must be provided for in Memorandum of	
	Understanding	417
Schedule 7	Mergers	419
Schedule 8	Omitted as spent—E.R. 1 of 2016	435
Schedule 9	Transitional and Savings Provisions	437
Index		443