



## ***MG Supports CARE-HK in Protesting the Creation of an Anti-Trust or Competition Commission***

**Nonoy Oplas**  
August 12, 2008

People like plenty of options: when they shop for food, drinks, appliances, gadgets, toys and clothing for their kids, schools and universities when their children grow up, what banks they can trust their savings, what car or motorcycle to buy and drive, and so on. Thousands, even millions of private enterprises, from small- to medium- to large enterprises, competing among each other across industries and sub-industries, across places and geographical areas, are what enable the people to enjoy having plenty of options.

Unfortunately, there is a minority among people who at least do not believe in market competition; at most, they hate market competition because they want to regulate those enterprises – what they can produce, buy and sell, for whom and from whom, by how much quantity, at what price level, etc. This deep desire to regulate enterprises, very often by people who have no experience putting up their own enterprise, or did once but was a loser, is often driven by envy. Or by plain evil desire to act like a Godfather or King-maker who decides who can do business and who cannot, and those allowed to do business have to secure first their signature, permission, accreditation, certification, and other regulations, and pay corresponding taxes, charges and fees.

And so various regulatory agencies were created by many governments around the world. And each agency will require its own set of papers to be submitted to it, even if the data and information given by the registering enterprise/s are the same as those submitted to all other government agencies. This alone costs many enterprises lots of money and wasted time and effort.

Not contented with those existing regulatory bodies, some governments want to put up a super-regulatory body that will “ensure competition” and consumer protection. That body is very often called “Anti-trust (or Competition or Fair Trade) Commission”.

The trouble with anti-trust laws and regulations is that they empower the anti-trust bureaucrats with the power to investigate any firm, the big ones especially. Even medium-sized firms can be investigated if the owners/managers of such firms are non-friendly to the administration in power.

When a firm lowers its prices relative to its competitors, the anti-trust agency can investigate it on grounds of "predatory pricing".

When a firm increases its prices relative to its competitors, it can be investigated and charged with "price gouging".

When all the major players have the same price, they can be investigated on charges of "price collusion".

Whichever one firm or all firms go, there will always be a ground for investigation – and harassment and possibly extortion – by the anti-trust regulators and bureaucrats. And this partly explains why many politicians, even some activist groups and academics, would want to become bureaucrats themselves and become anti-trust regulators.

If people want real competition and protection from monopolistic or oligopolistic system, government regulations like putting up anti-trust bodies are not the answer. Better to drastically cut multiple and bureaucratic business permit procedures, taxes and fees, to only 1 or 2, abolish the rest. Approximate a "contestable market" situation where firm entry and exit (opening up or closing a business) is almost zero, except on sectors and industries with huge "sunk costs".

Recently, the Hong Kong government introduced a proposed legislation creating an Anti-trust or Competition Commission, a new regulatory body. Our friend and partner institute there, the [Lion Rock Institute](#), HK's independent and first free-market institute, opposed that move. Their main argument is that HK's zero tariffs, low taxes, little or no barriers to entry of firms, are what makes the HK economy free and competitive, in fact the freest economy in the world based on various studies like the Economic Freedom of the World (EFW) index, so that there is no need to create a new government bureaucracy to ensure competition.

LRI also observed that some big law firms in the US and Europe are positioning to get into HK in anticipation of big and new law suits and legal cases that the planned Anti-trust body will hear. And a number of HK academics are gearing to be appointed as officials of the planned body.

LRI is right, definitely. Competition or anti-trust regulatory body is first and foremost, a bureaucracy. Creating a new bureaucracy immediately creates 2 costs: (1) taxes and fees to establish and sustain that bureaucracy, and (2) compliance costs to those

regulated (hiring of lawyers, auditors, PR guys, etc.) that will help represent them in arguing with competition bureaucrats.

MG supports LRI and the Coalition Against Regulatory Expansion in Hong Kong (CARE-HK) in this move. Many free marketers and believers of individual freedom around the world are looking at HK as one of the models of a free market economy for their respective countries.

HK should remain a living example of what a free economy is – low and few taxes, little welfare, unilateral free trade, limited government, etc. There is little State welfare, but there is also little State intervention and taxation for people who are ambitious and entrepreneurial enough, who create new jobs for other people, and who expand the scope of competition among enterprises serving millions of customers.

Below is the official letter and [position paper](#) of LRI and CARE-HK. I am one of the co-signatories there.

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Re: Response to Hong Kong Government's Detailed Proposals for a Competition Law

Dear Sir/Madam,

The Lion Rock Institute and CARE Hong Kong (the Coalition Against Regulatory Expansion in Hong Kong) cannot support the proposed competition law set forth in the Commerce and Economic Development Bureau's May 2008 document entitled "Detailed Proposals for a Competition Law – A Public Consultation Paper" (herein referred to as the "Detailed Proposal").

There is no compelling reason for the introduction of this law and it should be rejected for the following reasons:

1. The Detailed Proposal is based on flawed economic theory – it simply does not make sense in a market as open to new competitors as Hong Kong.
2. The Detailed Proposal would result in vague and arbitrary law, which is contrary to the best of the territory's Common Law legal tradition.
3. There are legitimate questions about the quality and the impartiality about the advice the government has received in putting together the Detailed Proposal.
4. The Detailed Proposal fails any honest economic and cost-benefit analysis.
5. The Detailed Proposal would represent the biggest expansion of the state in the Hong Kong economy in the last 50 years and be contrary to Hong Kong's traditional "positive non-intervention" approach on which the territory's economic success has been built.

"No monopoly can survive for long without government regulations to protect it."

It is our hope that the Hong Kong Government will sincerely review its plans for the introduction of this new law. Should you have any questions concerning CARE HK or our comments on the Detailed Proposal, please contact The Lion Rock Institute at (852) 8101 2112.

Sincerely,

CARE HK (the Coalition Against Regulatory Expansion in Hong Kong)

CARE HK is made up of The Lion Rock Institute of Hong Kong and the following signatories:

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