

Draft Guidelines under the Competition Ordinance - 2014
Submission received from Association of China-Appointed Attesting Officers Limited

《競爭條例》草擬指引— 2014
由中國委托公証人協會有限公司提交的意見書

Daer Sir/ Madam,

Further and with reference to the comments submitted by the ACAA to the Competition Commission dated 8 December 2014, the ACAA submits, in relation to Concern (2), that information provided as part of a decision application or an exemption application may be subject to privilege (e.g. legal professional privilege). Such an application may be made when litigation is in contemplation, with privileged documents disclosed for the limited purpose of the decision or exemption application only. A recipient of the privileged documents (whether it is the Competition Commission or the Chief Executive in Council) being disclosed by a decision or an exemption applicant for the limited purpose of its application should not be free to disclose the privileged documents to any third party or use them against the applicant or any relevant party in an enforcement action or otherwise (which is a purpose different from the applicant's intended purpose of disclosure): see e.g. *B v. Auckland District Law Society* [2003] 2 AC 736. This supports the comments and recommendations already made by the ACAA in relation to Concern (2) in its previous submission.

It is sincerely hoped that the Competition Commission will give due consideration to this submission and amend its guidelines accordingly.

Should you have any questions arising from this submission, please do not hesitate to contact Mr. Edward Mok

Regards,

Secretariat of Association of China-Appointed Attesting Officers Limited

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