



香港地產建設商會

THE REAL ESTATE DEVELOPERS ASSOCIATION OF HONG KONG

香港中環德輔道中19號環球大廈1403室
1403 World-Wide House, 19 Des Voeux Road Central, Hong Kong
Tel 2826 0111 Fax 2845 2521 www.reda.hk

17 April 2015

The Honourable Anna Wu Hung-yuk, GBS, JP
Chairperson
Competition Commission
Room 3601, 3607-10, 36/F, Wu Chung House
197-213 Queen's Road East
Wanchai Hong Kong

Dear Anna,

Competition Ordinance – Revised Draft Guidelines of the Competition Commission and the Communications Authority

We refer to the *Revised Draft Guideline on the First Conduct Rule – 2015 [CCCAD2015001E]* and the *Revised Draft Guideline on the Second Conduct Rule – 2015 [CCCAD2015002E]* (the **Revised Draft Guidelines**) issued by the Competition Commission and the Communications Authority on 30 March 2015 and are pleased to advise that we welcome the more extensive guidance on the treatment of joint ventures and joint collaboration arrangements as provided in the Revised Draft Guidelines. We would also like to commend the Commission's decision to give express recognition to the legitimacy of joint bidding arrangements and the benefits they deliver.

We are however disappointed with the continued absence of, firstly, any appreciability threshold in the consideration of restrictions under the first conduct rule (the *“more than minimal”* threshold proposed at paragraph 3.26 being much lower than that generally accepted in other jurisdictions) and secondly, any market share threshold to assist with a market participant's assessment of what constitutes a *“substantial degree of market power”*. As explained in our previous letter of 15 December, their absence represents a



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marked departure from international practice. We would request the Commission to re-consider its stance. If you consider it of help, we would be more than willing to come and discuss further with your team on these issues.

In the meantime, we would request the Commission to look into the aforementioned concerns which we trust are not just confined to our own industry but being widely held throughout the business community.

Yours sincerely

Louis Loong
Secretary General