

Research Assessment Exercise 2020
Impact Case Study

University: Lingnan University

Unit of Assessment (UoA): 21 – Economics and Finance

Title of case study: Promoting competition policy development and effective enforcement of competition laws in Hong Kong and Mainland China

(1) Summary of the impact

In 1998 the Unit established itself as a leading research centre in competition policy in Hong Kong. Since then it has produced numerous research outputs that have influenced competition policy development both in terms of policy debate and design. This was prior to the enactment of Hong Kong's 2012 Competition Ordinance and after the Ordinance took effect in 2015. The Unit's research has also generated direct impacts on competition law enforcement in China by:

- Drafting various important regulations for the enforcement of China's 2018 Anti-Monopoly Law (AML);
- Drafting the merger control regulations in China, which have been used by the competition agency to assess over 3000 merger notification cases since 2018;
- Directly assisting the competition law enforcement agency in high-profile cases;
- Introducing, via book translation and case analysis, international best practices and up-to-date economic reasoning to China.

Competition developments in Hong Kong and China have benefited both businesses and consumers by maintaining a "level-playing field" and consequently promoting economic efficiency. The research has also impacted competition enforcement agencies and the courts.

(2) Underpinning research

Research on competition policy started in 1998 by Prof. Zhang, who was later joined by Prof. Lin (2000-present) and Prof. Wong (2015-present). The Unit's research is a combined effort by Lingnan University's Department of Economics and its Centre for Public Policy Studies. The underpinning research is of two categories: (1) theoretical studies on firm competitive strategies and potential welfare effects and (2) policy research on competition policy design and implementation.

Theoretical Studies

Since 2000, Prof. Lin has conducted research on the strategic behaviour of firms in innovation, vertical spin-offs and vertical integration [R1]. This has provided insight into how antitrust authorities should assess such business strategies. His research on cross-border investments has direct implications for merger review policies in developing countries such as China [R2].

Prof. Wong's publication in the RAND Journal of Economics [R3] shows that the all-unit-discount, a new form of pricing strategy for dominant firms in certain industries (e.g., in the EU vs. Intel case in 2009 and the Tetra Pak Anti-Monopoly Case in China in 2016), can significantly foreclose competition from rivals and hurt consumers. This research provides the basis for the economic analysis of the Tetra Pak case in China in 2016.

Furthermore, among his publications in leading academic journals [R4] [R5], Prof. Zhang's research on interpersonal bundling, published in 2014 in Management Science [R6], has been

recognized as the first academic research on group discount pricing policies by platform retailing companies.

Policy-Oriented Research

Prof. Lin has actively conducted research on competition policy developments in both Hong Kong and Mainland China using Lingnan University's first Public Policy Research grant from the RGC, which he received in 2008. This resulted in a comprehensive policy paper that gave concrete recommendations to the Hong Kong SAR government during its public consultation process before Hong Kong's Competition Ordinance was enacted in 2012.

(3) References to the research

[R1] Lin, Ping, (2019), "Vertical Integration and Disruptive Cross-Market R&D", with Tianle Zhang and Wen Zhou, *Journal of Economics and Management Strategy*.

[R2] Lin, Ping, (2011), "FDI in a Two-Tier Oligopoly: Coordination, Vertical Integration and Welfare," with Kamal Saggi, *International Economic Review*.

[R3] Wong, Adam Chi Leung, (2018), "All-Units Discounts as a Partial Foreclosure Device", with Yong Chao and Guofu Tan, *RAND Journal of Economics*.

[R4] Zhang, Tianle, (2018), "Patentability, R&D Direction, and Cumulative Innovation" (with Yongmin Chen and Shiyuan Pan), *International Economic Review*.

[R5] Zhang, Tianle, (2018), "Entry and Welfare in Search Markets" (with Yongmin Chen), *Economic Journal*.

[R6] Zhang, Tianle, (2015), "Interpersonal Bundling" (with Yongmin Chen), *Management Science*.

(4) Details of the impact

In 2010, the Unit was commissioned to undertake a project for the Anti-Monopoly Bureau of the Ministry of Commerce, PRC. This significantly impacted merger reviews of China's competition law enforcement from 2011 to 2018. Within the project outcomes, there were two major reports: The first report surveyed state-of-the-art antitrust laws in economics and "best practices" in the major developed economies regarding merger control. It also revised the merger guidelines in the United States, the UK, and Australia, and made recommendations for the merger control policy in China. The second report was a proposal of "Merger Guidelines" for China, which served as the basis for China's Anti-Monopoly authority to promulgate its *Interim Regulation on Assessing the Competition Impacts of Concentrations among Undertakings* in 2011, which has been used since.

Prof. Lin was invited by the China's Ministry of Commerce in 2010 to help draft China's "Merger Guidelines" which was enacted a year later and has been used by China's Competition Authority in evaluating over 3000 mergers [S1]. Prof. Lin was also invited by the Hong Kong Competition Commission in 2016 to help conduct market research on local auto-fuel market [S2] [S3].

"On behalf the Competition Commission ("Commission"), I am writing to express our most sincere appreciation for the Centre for Competition Policy and Regulation ("Centre") led by Professor Lin Ping at Hong Kong Lingnan University for the essential role they played in the Auto Fuel Market Study conducted by the Commission. The study was a comprehensive review of the state of

competition in Hong Kong auto fuel market and the reported published in 2017 had identified both behavioural and structural issues that hinder competition.

Professor Lin designed and oversaw the conduct of a consumer survey which focused on one crucial aspect of the study's finding, e.g., the lack of choice in the selection of the auto fuel grade in Hong Kong. Based on the survey's findings, the Commission was able to put forward a very strong case for the reintroduction of a lesser and potentially cheaper grade of petrol to Hong Kong.

Apart from the survey, Professor Lin had also reviewed the report before its publication, and we had benefited immensely from his sound advice that helped to improve the report's overall quality.

The collaboration with Professor Lin and the Centre was a very fruitful one for the Commission ..."
[S3].

Over the past few years, Prof. Lin has participated in several high-quality conferences on competition policy [S4]. In addition, Prof. Lin also organized several conferences on competition policy and regulation [S5]. These have attracted internationally renowned scholars, chief economists of the Department Justice of the United States, and the former Chairman of the Australian Competition and Consumer Commission, among others.

After Prof. Wong's economic theory on loyal discounts was published in the *RAND Journal of Economics* in 2018, the Chinese/HK government utilized it in the abuse of dominance case by the State Administration for Industry and Commerce. This was a four-year long investigation which led to the decision of imposing a fine of RMB668 million (approx. US\$100 million) on Tetra Pak in 2016. Prof. Guofu Tan, the head of the economic analysis team for the Tetra Pak case (利樂案), explicitly stated, in his post-case publication, that the aforementioned article which he co-authored with Prof. Adam Wong, provides the economic reasoning for the decision made by the State Administration for Industry and Commerce. (See, Fu, X. and G. Tan, (2018), "Abuse of Market Dominance Under China's Anti-Monopoly Law: The Case of Tetra Pak", *Review of Industrial Organization*.)

For Chinese economists, there was a huge lack of antitrust materials translated into Chinese. Most of the books available were in English, creating a gap in the knowledge of the experts who were not fluent. With this in mind, in 2007, Prof. Ping Lin led a team of antitrust economists to translate three editions of *The Antitrust Revolution: Economics, Competition and Policy* into Chinese. The series examines the application of modern economics to actual antitrust cases, which constitute the so-called post Chicago School in antitrust. The availability of the translated version enabled a greater number of Chinese economists to obtain a broader view of antitrust and provide expert knowledge more effectively. This was particularly important at the time, because the Chinese editions were first published in 2008, which was when China's Anti-Monopoly Law had come into effect. Later, in 2010, Prof. Lin's team translated another book, *How the Chicago School Overshoot the Mark: The Effect of Conservative Economic Analysis on U.S. Antitrust*, into Chinese so as to provide Chinese readers with more balanced views on antitrust. The translated books are well received by competition experts in China, particularly by staff in Anti-Monopoly Law enforcement agencies and the People's Supreme Courts. These translated books have functioned as major antitrust "handbooks" and/or toolkits for the young antitrust jurisdiction and have contributed to the development of competition policies in China during the first decade of enforcement of the Anti-Monopoly Law.

Invited by the State Administration for Market Regulation, Prof. Lin has been leading a team of economists in conducting economic analysis in official investigation of a (global top-5) multinational company for alleged violation of China Anti-Monopoly Law. This demanding work

started in early 2016 and official decision on the case is to be made soon. Prof. Lin and his team had submitted a full report which provided “necessary and sufficient support to the investigation of the case” [S6].

“This case is highly complex, and the investigation and analysis are very challenging. During the past three and half years, Professor Lin and his team have exerted tremendous amount of time and effort, helped the Bureau analyse the evidence and established the theories of competition harm, thereby providing pioneering theoretical and empirical studies on anti-competitive impacts of the alleged conduct....

The economic analysis and research findings of Professor Lin and his team have provided necessary and sufficient support of the Bureau’s investigation of this case.”.

(5) Sources to corroborate the impact

[S1] Recognition of the Anti-Monopoly Bureau of the Ministry of Commerce of commission projects on merger guidelines of China (2010), China’s *Interim Regulation on Assessing the Competition Impacts of Concentrations among Undertakings*. The Interim Regulation can be found at <http://www.mofcom.gov.cn/article/b/c/201109/20110907723440.shtml>.

[S2] Thank you email from the Hong Kong Competition Commission dated 5 May 2017 for suggestions/advice regarding the Auto-Fuel Market Study (2016).

[S3] Testimonial from the Hong Kong Competition Commission, Sep 2019.

[S4] Reports of Prof. Ping Lin’s speeches

- at the 7th China Competition Policy Forum: Competition Policy in a New Era – Retrospect and Prospect of a Decade of Anti-Monopoly Law Enforcement in China, held in Beijing during 31 July to 01 August 2018.
- at the 8th China Competition Policy Forum: Free Trade Zoon Development and the Role of Competition Policy, held in Haikou, Hainan, during 8 and 9 May 2019.

[S5] Conferences organized by Prof. Ping Lin under the Centre for Competition Policy and Regulation.

- Lingnan Competition Policy Forum: Mainland China and Hong Kong, held in Hong Kong during 15 and 16 December 2017.
- HKU-Lingnan-Florida Platform Competition Conference (co-organized with the HKU FBE Industrial Economics and Competition Policy Program and the University of Florida Levin College of Law), held in Hong Kong during 20 and 21 June 2019.
- Competition Enforcers & Academic Summit 2019 (co-organized with Hong Kong Competition Commission), held in Hong Kong during 1 and 2 August 2019.

[S6] Testimonial from the State Administration for Market Regulation, Sep 2019.