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## Hong Kong

**Post:** Hong Kong

### **Complaint on Retailer's Alleged Breach of Competition Law**

**Report Categories:**

Agriculture in the News

Market Development Reports

Retail Foods

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**Report Highlights:**

Local press reports that a major Hong Kong retail chain has urged local suppliers to agree that any product price increase requests must be submitted 12 weeks in advance with detailed cost breakdown justifications. While suppliers have lodged a complaint on the retailer's possible breach of competition law, academia specialized in this area said available information does not suggest any violation. The move, nevertheless, will allow the retailer to obtain sensitive commercial data, which is to its benefit, because the retailer also buys direct from overseas suppliers through consolidators and carries its own branded products. The information requested from suppliers is conducive to the pricing of the retailer's own products.

U.S. food and beverage exporters exploring the Hong Kong market usually look for importers who have good distribution networks with local supermarkets. Hong Kong's retail market is dominated by two major supermarket chains, which have very strong bargaining power over suppliers. While buying from local suppliers and agents, local retailers also carry their own brands and source products directly from overseas suppliers via consolidators. Therefore, these major supermarket chains are not only partners, but also competitors of local suppliers and agents.

Local press reports that one of the two major supermarket chains wrote to their suppliers requesting that they provide a cost breakdown justification for any price increase request at least 12 weeks in advance of the proposed effective date of the new, higher price. Acceptable cost justification only covers those costs associated with raw ingredients, transportation, packaging, and public utilities such as electricity, water, and gas bills. The retailer stated in the letter to suppliers that it would not consider increased costs in manpower, distribution, and management as sufficient justification for raising retail prices.

Exceptions are provided for certain products including fresh produce, meat products, and those products with prices already fixed in contracts.

Suppliers need to agree to the new price increase condition in order to continue supplying goods to the retailer. The letter indicated that suppliers that choose to sell to the retailer after the response deadline are implying that they agree to the new terms and conditions regarding retail price increase requests.

In the future, if U.S. exporters want to raise retail prices on items for sale in the supermarket chain in question, the retailer reserves the right to reject the price increase requests and to determine the effective date of any approved price increases because their suppliers need to submit the request to the retailer accordingly.

## Market Responses

Importers feel that the required data is sensitive commercial information that could influence the pricing of the retailer's branded products and those products sourced via consolidators. Moreover, the retailer will be able to obtain all associated costs of products that local suppliers are also selling to other retail outlets. It was reported that suppliers have lodged a complaint to the Hong Kong Competition Commission on the retailer's possible breaching of the "abuse of substantial market power" covered by the Hong Kong competition law.

However, Hong Kong academia specializing in the competition law have suggested that suppliers may not have a case for the complaint as the retailer is simply asking for information to determine whether product prices should increase in its stores. Meanwhile, the Competition Commission has not commented on the incident.

Hong Kong suppliers worry about the lead time it will take to materialize price increases with this new procedure. The request has to be submitted by 12 weeks in advance plus the time required by the retailer for vetting the application and the back and forth negotiation. Suppliers foresee a considerable

impact on products with a relatively short shelf-life because suppliers are likely to absorb any increase in costs before the retailer agrees to the new, augmented prices. Suppliers are also concerned that another supermarket chain will copy this practice. Local suppliers admitted that they have little bargaining power over the retailer and few options.

The Hong Kong Agricultural Trade Office provides an annual [report](#) on Hong Kong's retail market.