

香港特別行政區政府
工商及科技局
工商科



COMMERCE AND INDUSTRY BRANCH
COMMERCE, INDUSTRY AND
TECHNOLOGY BUREAU
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31 May 2007

Miss Erin TSANG
Clerk to Panel on Commerce and Industry
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear Miss Tsang,

Government Electronic Trading Services market

The Administration has completed the investigation into some complaints concerning certain business practices in the Government Electronic Trading Services (GETS) market received earlier on and has taken the necessary follow-up actions. We write to report to the Panel on Commerce and Industry the outcome of our investigation which is set out at **Annex A**.

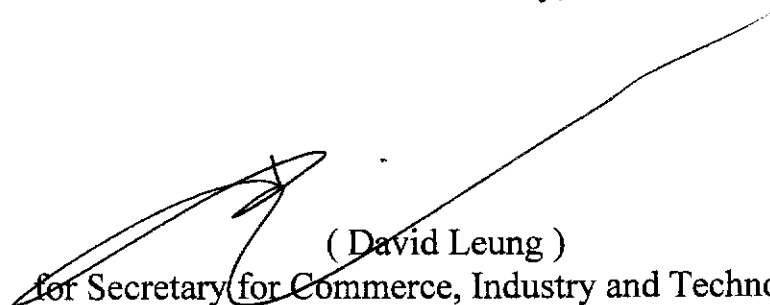
The Administration briefed Members on the measures which had been put in place to maintain fair competition in the GETS market at the Panel meeting on 14 June 2004 (a note on the GETS market is at **Annex B** for Members' reference). Members noted that a GETS service provider had lodged some complaints against certain business practices of its competitor then. We undertook to report to the Panel the outcome of investigation in due course.

We received additional complaints from the two service providers in 2005. We then decided to report to the Panel the outcome of our investigation in one go after we have dealt with all relevant complaints. It took us some time to investigate certain complaints, because we need to collect business information and take evidence from the service providers concerned, as well as appoint experts in competition affairs to assess the

impact of certain alleged conduct on the competition process in the GETS market.

The Administration has informed the service providers concerned of the outcome of our investigation set out at Annex A and has taken the necessary actions to ensure fair competition in the GETS market. We have not received any new complaint from the service providers since January 2006.

Yours sincerely,



(David Leung)
for Secretary for Commerce, Industry and Technology

Encl.

Complaints relating to Business Practices in the GETS market

	Date of Complaints Received	Details of Complaints	Outcome of Investigation
1	June 2004	Global e-Trading Services Ltd. (Global) alleged that the web page of Tradelink Electronic Commerce Ltd. (Tradelink) indicated that 100% of Import and Export Declaration (TDEC) transactions were processed through Tradelink even after Global had launched its services.	The allegation was substantiated. The relevant information in Tradelink's webpage was updated upon being notified by the Government.
2	June 2004	Global alleged that Tradelink misinformed users that the Government would make electronic submission of notifications under Textiles Trader Registration Scheme mandatory soon and that it would be better for users to stay on using Tradelink's TDEC services.	According to the Government's service contracts on GETS, service providers are required to make each service independently available for subscription. There was no evidence to indicate that Tradelink had breached this provision.
3	June 2004	Global alleged that Tradelink posted notices at all its Electronic Trading Access Service (ETAS) outlets and made verbal notification to ETAS users defaming Global as an unknown party soliciting information from ETAS users.	The allegation was not substantiated, as no company name was mentioned in the relevant notices.
4	June 2004	Global alleged that Tradelink misinformed customers that an agent which handled their TDECs was going out of business when the agent decided to work with Global.	The allegation was not substantiated, as details of the customers concerned were not available for verification.

5	June 2004	Global alleged that Tradelink bore one third of the late penalties incurred by a customer on condition that the customer would not use Global's services; gave away free computer software to customers in exchange for long term exclusive service contracts; and offered a rebate of the rental for the first three months as incentive to lock in TDEC service agents.	The allegation was not substantiated, as details of the customers concerned were not available for verification.
6	June 2004	Global alleged that Tradelink threatened a TDEC service agent that it would urge the agent's clients to switch to another agent if the former worked with Global.	The allegation was not substantiated, as details of the TDEC service agent concerned were not available for verification.
7	March 2005	Global alleged that Tradelink sought to maintain its dominant share in the GETS market by (i) offering low prices selectively to companies which were Global's marketing targets and (ii) locking in major traders by virtue of the exclusive contracts it held for Dutiable Commodities Permits (DCP) and TDEC services.	Having regard to the outcome of a competition impact analysis conducted by experts in competition affairs and the general principles for consideration of anti-competitive conduct, the Government found that the allegation was not substantiated.
8	March 2005	Global alleged that Tradelink attempted to maintain its monopoly in the GETS market after 2004 by soliciting the withdrawal of the potential bids for the 2002 GETS tender exercise.	On the basis of the information available, there was no evidence to substantiate the allegation.

9	September 2005	Global alleged that Tradelink's exclusive agreements with Government Approved Certification Organisations (GACOs) prevented GACOs from cooperating with Global and allowed Tradelink to maintain its monopoly in the provision of the Certificate of Origin (CO) service.	The Government found that certain provisions in the agreements between Tradelink and GACOs appeared to have the effect of fettering the statutory functions of GACOs and restraining competition in the provision of CO service. The Government asked Tradelink to procure appropriate amendments to the relevant contracts in January 2006. Tradelink took action to clarify and rectify the relevant contracts in February 2006.
10	November 2005	Tradelink alleged that it received several enquiries from its customers who had received calls from another GETS service provider which urged them to switch to using Global as Tradelink would cease operations. One customer called Tradelink to ask whether they would increase their annual fees for their services, quoting sources of information from Global.	The allegation was not substantiated, as details of the customers concerned were not available for verification.
11	November 2005	Tradelink alleged that Global sent a message by fax to traders, carrying a statement that implied Tradelink's computer systems could not comply with the Government's requirements for the provision of GETS.	The statement made reference to a circular of Tradelink about certain features of its new service. The Government considered that Global quoted the circular out of context and reminded Global in February 2006 of the need to be cautious when conducting marketing activities in future.

Government Electronic Trading Services market

Government Electronic Trading Services (GETS) refer to the front-end electronic services for submitting six trade-related official documents, namely (a) Import and Export Declaration (TDEC); (b) Certificate of Origin (CO); (c) Production Notification (PN); (d) Dutiable Commodities Permit (DCP); (e) Electronic Manifest (EMAN); and (f) notifications under the Textiles Trader Registration Scheme (TTRS).

2. In providing the front-end electronic services, a service provider collects data electronically from traders and carriers, confirms their identity, validates such data, and transmits the data to the Government's backend computer systems for the latter to perform a wide variety of functions, including customs clearance, compilation of trade statistics, import and export licensing control, origin certification, etc.

3. To cater for the needs of traders/carriers who do not have the IT capability of making direct electronic submissions from their own offices, a GETS service provider is required to provide the Electronic Trading Access Service (ETAS) whereby paper submissions by traders/carriers are converted into electronic submissions for onward transmissions to the Government.

4. Prior to 2004, Tradelink Electronic Commerce Limited ("Tradelink") was the sole service provider of GETS under a franchise. Having consulted the Panel on Commerce and Industry, the Government decided in 2001 to invite new service providers to provide GETS from 2004. Following a tender exercise in 2002, Global e-Trading Services Limited (Global) was appointed as an additional service provider. It started to provide services from January 2004.

5. At present, Tradelink provides GETS for all the six trade-related documents and Global provides GETS for TDEC, DCP and EMAN.