

Case No. AD/02NH

# FORM AD



**The Hong Kong Association of Pharmaceutical Industry**

**Application for a Decision under Section 9 of the Competition Ordinance (Cap 619)**

Submitted by

The Hong Kong Association of Pharmaceutical Industry

on

31 January 2019

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**FORM AD****Application for a Decision  
Under Sections 9 and/or 24 of the Competition Ordinance**

*This Form AD lists the information and supporting documents which should be provided by the undertaking(s) making an application (“Applicant”) for a decision under sections 9 and/or 24 of the Competition Ordinance (Cap 619) (“Ordinance”). Before completing this Form AD, the Applicant should consult the Explanatory Note to Form AD available on the website of the Competition Commission (“Commission”) and the Commission’s Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 Block Exemption Orders.<sup>1</sup>*

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<sup>1</sup> *Where an Application is made in respect of an agreement or conduct falling within the concurrent jurisdiction of the Commission and the Communications Authority under section 159 of the Ordinance, references to the Commission in this Form AD include the Communications Authority as the context requires.*

## SECTION 1: General Information

### 1.1. *Specify the full name and address of the Applicant.*

- (1) The full name of the Applicant is the Hong Kong Association of the Pharmaceutical Industry (the “**Applicant**”). The address of the Applicant is:

Room 906-7, 9/F  
K. Wah Centre  
191 Java Road  
North Point, Hong Kong

### 1.2. *Briefly state the purpose of the Application. This can be done, for example, as follows:*

*“The Applicant makes this application for a decision from the Commission as to whether or not [the agreement and/or the conduct] specified in the Application is [excluded and/or exempt] from [the First Conduct Rule and/or the Second Conduct Rule] of the Ordinance on the basis of the information provided.”*

- (2) The Applicant makes this application for a decision from the Commission as to whether or not the operation of the Market Sales Survey as specified in this Application is excluded from the First Conduct Rule of the Competition Ordinance (Cap 619) (the “**Ordinance**”) on the basis of the information provided.

### 1.3. *Provide a non-confidential description of no more than 500 words in English or 1,000 characters in Chinese summarising the nature and objectives of the agreement and/or conduct in question, and the reasons in favour of the Application.<sup>2</sup>*

- (3) This Application seeks a decision from the Commission pursuant to section 9 of the Ordinance regarding the Applicant’s proposed arrangements to collect and distribute aggregated, non-price sales data regarding prescription and over-the-counter (“**OTC**”) pharmaceutical products (Western medicine) in Hong Kong and Macau (the “**Market Sales Survey**”).
- (4) Historical sales data of pharmaceutical companies in Hong Kong will be collected by the Applicant on a quarterly basis. That data will be processed and aggregated by the Applicant. The data will not contain information on prices, sales volumes, stock keeping units or patient numbers. The collated data will be subsequently distributed on a quarterly basis and will be made available for purchase by members and non-members of the Applicant. As a result, the Applicant considers that the operation of the Market Sales Survey does not contravene section 6(1) of the Ordinance (the “**First Conduct Rule**”).
- (5) In any event, the Applicant considers that the Market Sales Survey will enhance overall economic efficiency within the meaning of section 1 of Schedule 1 to the Ordinance (the “**Economic Efficiency Exclusion**”). The Market Sales Survey contributes to improving production or distribution or promoting economic progress in the supply of pharmaceutical products in Hong Kong, as well as bringing new treatments for patients in Hong Kong. Consumers receive a fair share of the efficiencies generated by the Market Sales Survey. The Market Sales Survey does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the relevant efficiencies. The Market Sales

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<sup>2</sup> *This non-confidential summary may be used by the Commission for purposes of publishing a notice of the Application on the Commission’s website.*

Survey does not afford the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services in question.

- (6) The Applicant therefore seeks a decision from the Commission confirming the above.

**1.4. Confirm that the Applicant agrees and authorises the Commission to use the information provided in the Application for the purposes of processing the Application and making a decision under section(s) 11(1) and/or 26(1) of the Ordinance, including by publishing the non-confidential version of the completed Form AD and attached supporting documentation.**

- (7) The Applicant agrees and authorises the Commission to use the information provided in this Application for the purposes of processing the Application and making a decision under section 11(1) of the Ordinance, including by publishing the non-confidential version of the completed Form AD and attached supporting documentation (except **Annex 1, Annex 3, Annex 4, Annex 5, Annex 7, Annex 10, Annex 11** and **Annex 12**).

**1.5. Specify whether the Application is made by the Applicant or by a legal representative on behalf of the Applicant. Identify the contact details of an appropriate contact person for the Applicant and, if applicable, the Applicant's legal representative, including the full name, title, correspondence address, email address and telephone number of such person(s). Confirm that the relevant person(s) have the Applicant's authorisation to act for and on behalf of the Applicant regarding all matters related to the Application, including accepting service of documents from the Commission.<sup>3</sup>**

- (8) The Application is made by Linklaters on behalf of the Applicant. The contact details of Linklaters for the purposes of this Application are:

Name: Marcus Pollard  
Alexander Lee

Address: Linklaters  
10th Floor, Alexandra House  
18 Chater Road  
Hong Kong

Telephone: +852 2901 5121

Email: [marcus.pollard@linklaters.com](mailto:marcus.pollard@linklaters.com)  
[alexander.lee@linklaters.com](mailto:alexander.lee@linklaters.com)

- (9) The persons named above have the Applicant's authorisation to act for and on behalf of the Applicant regarding all matters related to the Application, including accepting service of documents from the Commission. A copy of the letter of authorisation from the Applicant is provided in the following:

**Annex 1** [CONFIDENTIAL] Letter of Authorisation

<sup>3</sup> The relevant authorisation should be attached to Form AD in support of the Application.

(10) The contact details of the Applicant for the purposes of this Application is:

Name: Sabrina Chan, Senior Executive Director  
Address: The Hong Kong Association of the Pharmaceutical Industry  
Room 906-7, 9/F  
K. Wah Centre  
191 Java Road  
North Point, Hong Kong  
Telephone: +852 2528 3061  
Email: [sabrina.chan@hkapi.hk](mailto:sabrina.chan@hkapi.hk)

## SECTION 2: The Relevant Parties

### The Applicant

**2.1. Describe the Applicant's business activities (e.g. nature, size, geographic scope) and highlight those business activities which are relevant to the Application.**

- (11) The Applicant was established in 1968 with the mission to drive the expedient access to innovative healthcare solutions for the people of Hong Kong and Macau with high ethical standards across the industry. The Applicant currently has 38 full members, all of whom are companies active in the supply of prescription and OTC pharmaceutical products and/or medical devices in Hong Kong. The Applicant's members' activities include the sales and marketing of pharmaceutical products,<sup>4</sup> registering and conducting clinical trials, importing and exporting of products and their distribution throughout Hong Kong and Macau. The Applicant also has 27 associate members.
- (12) The names and contact details of the 38 full members of the Applicant are provided in the following:

**Annex 2** Full members of the Applicant

- (13) The Applicant also aims to provide to its members (including its associate members who may be academics, educational institutions, or non-government organisations) information on relevant matters relating to the development of the healthcare sector in Hong Kong. Prior to the full commencement of the Ordinance, the Applicant undertook a sales survey to provide members with reliable market data. Such a survey has been suspended since 2015. The Applicant now plans to launch the Market Sales Survey once it obtains the approval of the Commission to do so.
- (14) The Applicant engages in economic activities in Hong Kong through a number of services, including the provision of training and educational courses and organising events for members' employees and healthcare professionals. Details of the Applicant's activities are available at its website <http://www.hkapi.hk/>.

**2.2. Set out the corporate (shareholding) structure of the Applicant. If the Applicant is controlled<sup>5</sup> by another person or persons, controls other persons or is otherwise affiliated with other persons, the Applicant should identify the various persons concerned. Information on group relationships should additionally be provided by way of a structure chart.**

- (15) The Applicant is controlled by its members. Its membership is detailed in **Annex 2**.

<sup>4</sup> "Pharmaceutical product" generally refers to any pharmaceutical or biological product intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans, or to affect the structure or any function of the human body: see paragraph 2.2 of the HKAPI Code of Practice, available at: [http://www.hkapi.hk/pdf/HKAPI\\_Code\\_of\\_Practice\\_2019.pdf](http://www.hkapi.hk/pdf/HKAPI_Code_of_Practice_2019.pdf). Under the Pharmacy and Poisons Ordinance (Cap 138), "pharmaceutical product" and "medicine" mean any substance or combination of substances (a) presented as having properties for treating or preventing disease in human beings or animals; or (b) that may be used in, or administered to, human beings or animals, either with a view to (i) restoring, correcting or modifying physiological functions by exerting a pharmacological, immunological or metabolic action; or (ii) making a medical diagnosis. References to "pharmaceutical products" in this Application refer to Western medicine.

<sup>5</sup> **For purposes of this Form AD, a controlling relationship can be assumed to exist where one party:**

- (a) owns more than half the capital or business assets of another entity;**
- (b) has the power to exercise more than half the voting rights of another entity;**
- (c) has the power to appoint more than half the members of the supervisory board, board of directors or bodies legally representing the other entity;**
- (d) has the right to manage the affairs of another entity; or**
- (e) has a de facto power to manage the affairs of another entity.**



2.3. ***Provide the worldwide and Hong Kong turnover for the last financial year of the Applicant consolidated as appropriate.<sup>6</sup> Copies of audited annual reports, accounts and/or equivalent documents should be attached as supporting documentation to Form AD.***

(16) [CONFIDENTIAL – turnover of the Applicant]. The turnover for the last financial year of the Applicant, as well as copies of the latest audited annual accounts of the Applicant, are provided in the following:

**Annex 3** [CONFIDENTIAL] 2017 Audited annual accounts of the Applicant

### Other Relevant Party or Parties

2.4. ***Provide the full name, address and corresponding particulars of any other party to the agreement in question, or any other party involved in the conduct or who is, in the Applicant's view, a relevant party, in the same manner as set out in paragraphs 2.1 to 2.3 above with respect to the Applicant as if such party were the Applicant. The name and contact details of an appropriate contact person for such party should be provided if known.***

(17) The Applicant considers that some of the Applicant's members will become "parties to the agreement in question" and/or "involved in the conduct" if and when they choose to participate in the Market Sales Survey, and as such may be considered "relevant parties" for purposes of this section of the Application. However, the Applicant is not yet in a position to ascertain which of the Applicant's members would participate in the Market Sales Survey unless and until the Commission makes a decision in favour of this application. The main reason for this is because members would only be in a position to decide to participate after seeing the outcome of this Application.

(18) In any event, the 38 full members of the Applicant, as detailed in **Annex 2**, will likely be the primary candidates to become "relevant parties" for purposes of this section. For purposes of assisting the Commission in this Application, and without prejudice to the decision of the Applicant's members on whether to participate in the Market Sales Survey after the Commission makes a decision in respect of this application, a list of the full members of the Applicant who purchased the Applicant's survey in 2015 are provided in the following:

**Annex 4** [CONFIDENTIAL] List of the full members of the Applicant who purchased the Applicant's survey in 2015

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<sup>6</sup> ***If the Applicant does not have a financial year, the worldwide and Hong Kong turnover for the preceding calendar year should be provided.***

## SECTION 3: The Agreement or Conduct

- 3.1. *Describe the agreement (for the purposes of the First Conduct Rule) and/or conduct (for the purposes of the Second Conduct Rule) which is the subject of the Application, including but not limited to: its nature, content, objectives and economic rationale, relevant date(s) and duration. Relevant documents should be attached as supporting documents to Form AD. For instance:*
- 3.1.1. *if the Application is made in relation to a written agreement, a copy of the agreement entered into by the Applicant or the latest draft agreement proposed by the parties should be provided;*
- 3.1.2. *if the Application is made in relation to an agreement which is not in writing, a full description of all the details of the agreement in question, and relevant documents evidencing the elements of the oral agreement should be provided;*
- 3.1.3. *if the Application is made in relation to conduct potentially subject to the Second Conduct Rule, a full description of the conduct in question, and all documents related to the conduct (for example, any agreement concerning the conduct or correspondence evidencing the conduct) should be provided;*
- 3.1.4. *copies of internal documents or materials prepared for the board of directors, individual directors, supervisory body or shareholders of the Applicant indicating the rationale and/or effects of the agreement and/or conduct in question.*
- (19) The Market Sales Survey will be undertaken pursuant to a resolution [CONFIDENTIAL – summary of the resolution].
- Annex 5** [CONFIDENTIAL] Resolution
- (20) Members of the Applicant (as detailed at **Annex 2**) consists of companies that engage in economic activity in Hong Kong and are thus undertakings within the meaning of section 2(1) of the Ordinance. A decision of the Applicant may accordingly be considered as a decision of an “association of undertakings” within the meaning of the First Conduct Rule.
- (21) The purpose of the Market Sales Survey is to collect and distribute data on the Hong Kong and Macau pharmaceutical sector. The Applicant considers that the Market Sales Survey will be beneficial to the recipients of the report containing data processed from the Market Sales Survey (the “**Sales Survey Report**”). The Sales Survey Report will be accessible by, and beneficial to:
- (a) pharmaceutical companies (that may or may not be members of the Applicant) in improving their efforts in potential product launches, efficient distribution, sales, promotion and marketing of products in Hong Kong;
- (b) government or public bodies within or outside Hong Kong in developing public policy or other programmes that may benefit the general patient population; and
- (c) academic institutions or medical professionals within or outside Hong Kong in furthering academic research and development.
- (22) After receiving a satisfactory decision from the Commission pursuant to section 11 of the Competition Ordinance in response to this Application, the Applicant plans to launch the Market Sales Survey as part of its normal operations in accordance with paragraph (25) below, until otherwise suspended by a decision of the Board of Directors of the Applicant.

**3.2. Describe the product(s) and/or service(s) to which the agreement and/or conduct in question relates.**

- (23) The Sales Survey Report will be retrospective – containing quarterly, aggregated sales data of pharmaceutical products of pharmaceutical companies in Hong Kong.
- (24) Although such data will cover sales made in Macau, this Application only concerns the application of the Ordinance to activities conducted in Hong Kong. Hence, for the purposes of this Application, details relating to Macau are not detailed any further.
- (25) The production and publication of the Sales Survey Report involves the collection, collation and processing of raw sales data from members of the Applicant through the Market Sales Survey. The Applicant plans to operate the Market Sales Survey as follows:
- (a) The Applicant will ask members of the Applicant that have sales of pharmaceutical products in Hong Kong and Macau to provide on a voluntary basis actual sales data to the Applicant each quarter. The information to be provided by members will be in a manner that does not contain information on prices, sales volume, stock keeping units or patient numbers. Pharmaceutical companies who are not members of the Applicant may also participate in the Market Sales Survey upon prior agreement with the Applicant by voluntarily providing similar data to the Applicant on a quarterly basis. Pharmaceutical companies providing data to the Applicant for purposes of the Market Sales Survey are referred to as a **“Participant Company”** or collectively as **“Participant Companies”** below.
- (b) The Applicant would assign a member of its staff who will be subject to confidentiality obligations (the **“HKAPI Officer”**<sup>7</sup>) to collect the data from all Participant Companies (the **“Collected Data”**), which will:
- (i) consist of sales data by value and by pharmaceutical product of the Participant Companies within the relevant quarter of the year;
- (ii) not contain any corresponding sales data by volume (i.e. no SKU or unit data) or any wholesale or resale price data of pharmaceutical products;
- (iii) only be used for purposes of producing the Sales Survey Report;
- (iv) be kept in strict confidence by the Applicant at all materials times; and
- (v) be secured and accessible only by the HKAPI Officer and the Senior Executive Director of the Applicant.<sup>8</sup>
- (c) The HKAPI Officer would then compile and process the Collected Data for purposes of preparing the Sales Survey Report, which will involve:
- (i) aggregating the Collected Data into different sectors, namely **“Government”**,<sup>9</sup> **“Private”**,<sup>10</sup> **“Trade”**<sup>11</sup> and **“Macau”**.<sup>12</sup> These four sectors correspond to the key sectors in Hong Kong that are widely recognised by the pharmaceutical industry;

<sup>7</sup> The HKAPI Officer will be an employee of the executive office of the HKAPI and will be independent and not in any other way affiliated with any pharmaceutical company in Hong Kong.

<sup>8</sup> The Applicant has security measures to ensure that the Collected Data is kept in strict confidence. In particular, [CONFIDENTIAL – summary of the security measures].

<sup>9</sup> Data in the **“Government”** segment covers sales data in respect of sales to hospitals and clinics operated by the Hospital Authority or the Department of Health in Hong Kong.

<sup>10</sup> Data in the **“Private”** segment covers sales data in respect of sales to private hospitals, clinics and doctors in Hong Kong that are not covered by the **“Government”** segment.

<sup>11</sup> Data in the **“Trade”** segment covers sales data in respect of sales to pharmacies, drug stores and retailers in Hong Kong.

<sup>12</sup> Data in the **“Macau”** segment covers sales data in respect of sales to all distribution channels in Macau.

- (ii) compiling the aggregated, segmented data into spreadsheets organised by sectors (i.e. “Government”, “Private”, “Trade”, “Macau”), by distribution channel (i.e. prescription or OTC drugs) or by type of data (e.g. by company, by therapeutic class,<sup>13</sup> by “product name”<sup>14</sup>); and
  - (iii) providing percentage comparisons of corresponding values to the corresponding quarter in the previous year.
- (d) The Collected Data will then be encrypted with password protection.
- (e) The Sales Survey Report would then be distributed to customers, as explained in paragraph (29) below.
- (26) After steps set out in paragraph (25)(c) above, the competitive sensitivity of the aggregated data will effectively be reduced to a level that would not affect independent decision-making by pharmaceutical companies with regard to their actions in the market:
- (a) The nature of the data is not competitively sensitive by itself. It is not forward-looking, and does not contain any information on the prices, sales volumes, stock keeping units of the products sold or patient numbers. The data only covers historic total sales values in the different segments.
  - (b) The data would not necessarily cover the entirety of all pharmaceutical products in Hong Kong, as industry players may choose not to participate in the Market Sales Survey. Around 20 members of the Applicant participated in past surveys conducted by the Applicant before 2015.
  - (c) The processed and aggregated data will only be distributed on a quarterly basis. By the time the Sales Survey Report is prepared, it will be at least a month after the relevant date of the Collected Data.
  - (d) Although data in the Sales Survey Report is not anonymised, the aggregation and compilation of data by sectors, distribution and type of data organisation effectively removes the competitive sensitivity in the data itself, or at the very least reduces it to a level that would not affect independent decision-making by pharmaceutical companies with regard to their actions in the market. Specifically:
    - (i) Each data entry in the Sales Survey Report may be better considered as aggregated sales data for a number of different pharmaceutical products using the same active molecule. Sales data in the Sales Survey Report is aggregated to the therapeutic class.<sup>15</sup> This means that each data entry in the Sales Survey Report refers to a pharmaceutical company’s total aggregated value of sales of pharmaceutical products of the same therapeutic class. Drugs of the same therapeutic class may consist of different drug products using the same active ingredient, but in different galenic formulations,<sup>16</sup> dosage or package size. For example, pharmaceutical products of different galenic formulations have previously been recognised not to be substitutable, even if they share the same active ingredient.<sup>17</sup> Aggregation by dosage and package size compounds the level of

<sup>13</sup> The coding system of the Market Sales Survey is based on the World Health Organisation’s Anatomical Therapeutic Chemical (“ATC”) Classification system, which is commonly used in the pharmaceutical industry in Hong Kong.

<sup>14</sup> “Product name” refers to the name of the pharmaceutical product sold by the pharmaceutical company, which may be available in different strengths, formulations and indications. Each entry of data organised by “product name” may therefore be an aggregation of sales data covering a series of different strengths, formulations and indications under the same brand.

<sup>15</sup> See also paragraph (4) of **Annex 8**.

<sup>16</sup> Galenic formulations refers to the dosage, pharmaceutical form and route of administration of pharmaceutical products.

<sup>17</sup> See, for example, European Commission Decisions in Case [COMP/M.5253 Sanofi-Aventis/Zentiva](#), Case [COMP/M.5778 Novartis/Alcon](#), para 16, Case No [COMP/M.6969 Valeant Pharmaceuticals International/Bausch & Lomb Holdings](#), para 16, Case No [COMP/M.7645 Mylan/Perrigo](#), para 19.

aggregation of sales data in each data entry in the Sales Survey Report. It would not be possible to rely on the sales data in the Sales Survey Report to identify or “reverse engineer” a Participant Company’s sales data or price information in respect of a single pharmaceutical product (the galenic formulation, dosage or package size would differ from other products of the same therapeutic class).

- (ii) The compilation of data by sectors (i.e. “Government”, “Private”, “Trade”, “Macau”) affords a high-level aggregation of data by customer type. For data aggregated under “Private”, “Trade” and “Macau” sectors, each sector consists of sales data for a large number of customers, such that it would not be possible to rely on the sales data in the Sales Survey Report to identify or reverse engineer a Participant Company’s sales data for a single customer in those sectors. Although sales under the “Government” sector refers to sales to the Hong Kong Government, in reality, they consist of sales to different entities within the Hong Kong Government, including different public hospitals or clinics under the Hospital Authority. It would therefore not be possible to rely on the sales data in the Sales Survey Report to identify or reverse engineer a Participant Company’s sales data in respect of a single public hospital or clinic.
  - (iii) The compilation of data in terms of “prescription” or “OTC” drugs affords a high-level aggregation of data by distribution channel. OTC drugs are drugs that are generally purchased over-the-counter without a prescription, whereas prescription drugs are primarily prescribed by doctors. Drugs sold through both distribution channels involve sales to a wide range of different customers. It would therefore not be possible to rely on the sales data in the Sales Survey Report to identify or reverse engineer a Participant Company’s sales data for a single customer.
- (27) In summary, the information made available to recipients of the Sales Survey Report will be limited to the total sales of pharmaceutical products of each Participant Company, as well as corresponding breakdowns of sales organised by sectors, by distribution channel and by type of data organisation. In the Applicant’s view, the data in the Sales Survey Report will be aggregated to a greater extent than what is currently readily and presumably legally available in overseas jurisdictions.<sup>18</sup> The information in the Sales Survey Report will not include any information on prices, sales volume, stock keeping units or patient numbers.
- (28) Apart from the Sales Survey Report, no other service or data derived from the data in the Sales Survey Report will be provided by the Applicant to members of the Applicant or other third parties.
- (29) The Applicant plans to sell the Sales Survey Report to any person (members or non-members of the Applicant) upon payment of reasonable fees. Customers may purchase the Sales Survey Report on a regular subscription basis or on an ad hoc basis. The Applicant currently plans to set reasonable charges for the sale of the Sales Survey Report on a “not-for-profit” basis, i.e. to a level that the revenue from selling the Sales Survey Report would cover the Applicant’s manpower and operational costs incurred for

<sup>18</sup> In overseas jurisdictions, such as in the UK, EU, US and Australia, data that is available to pharmaceutical companies through commercial data services such as IMS can in some cases be of a particularly granular nature as to be narrowed down to data at a “brick” or “surgery” level. See, for example, IMS Health, *Focus on Emerging Markets: A Director of Local Datasets, Offerings and Reports in Seven Key Emerging Markets* (2009), available at: <http://phx.corporate-ir.net/External.File?item=UGFyZW50SUQ9MTY1MjF8Q2hpbGRJRjRD0tMXxUeXBIPtM=&t=1>, which specifies the availability of IMS data at brick level. In addition, the Applicant understands overseas competition authorities themselves regularly use such IMS data in their activities, for example, European Commission Decisions Case No **COMP/M.7275 Novartis/GlaxoSmithKline Oncology Business**, para 257 and Case No **COMP/M.8974 Procter & Gamble/Merck Consumer Health Business**, para 23; UK Competition and Markets Authority Decision of 15 May 2018 in Case No **ME/6711/17 Tiancheng International/Biotest**.

carrying out the Market Sales Survey. Charges for the Sales Survey Report would be adjusted on an annual basis to better match the expected costs.

- (30) For purposes of illustrating the above description to the Commission, a non-confidential sample Sales Survey Report is provided in the following:

**Annex 6**          Sample Sales Survey Report

- (31) For purposes of illustrating the above description to the Commission, a confidential sample of the sales survey report that was conducted by the Applicant in the first quarter of 2015, together with sales data breakdown for ATC3 level in 2015 (January to November), is provided in the following:

**Annex 7**          [CONFIDENTIAL] HKAPI Sales Survey Report Q1 2015 (Jan-Mar)

## SECTION 4: Reasons for the Application

- 4.1. ***Specify whether, in the absence of the exclusion(s) or exemption(s) specified in paragraph 4.2 below, the First Conduct Rule and/or the Second Conduct Rule is considered to be applicable to the agreement and/or conduct in question. Explain the reasons for this by elaborating on how the agreement and/or conduct may prevent, restrict or distort competition in the relevant market(s)<sup>19</sup> in Hong Kong.***

***Applicants seeking a decision as regards whether section 1 (Agreements enhancing overall economic efficiency) of Schedule 1 to the Ordinance applies to an agreement must also complete the Annex to Form AD available on the website of the Commission.***

- (32) This Application is made in respect of the Market Sales Survey. As explained in paragraph (20) above, the decision to carry out the Market Sales Survey may be considered as a decision by an association of undertakings. In the absence of the application of the Economic Efficiency Exclusion, the First Conduct Rule may apply to the Market Sales Survey.
- (33) However, the Applicant does not consider the Market Sales Survey may be viewed as preventing, restricting or distorting competition in Hong Kong:
- (a) Paragraph 6.39 of the Commission's Guideline on the First Conduct Rule (the "**FCR Guideline**") provides that competition concerns "*may arise when competitors exchange information which is competitively sensitive information*", and that "*[c]ompetitively sensitive information includes information relating to [...] sales [...]*".
  - (b) There may be competitive relationship(s) between members of the Applicant in respect of some products. Some of the data in the Sales Survey Report may contain information relating to sales by certain members of the Applicant in respect of those competing products. Although unlikely, some data in the Sales Survey Report may be considered as "competitively sensitive information" as referred to in paragraph 6.39 of the FCR Guideline.
  - (c) The provision of such data in the Sales Survey Report to members of the Applicant may therefore be considered as giving rise to concerns under the First Conduct Rule, depending on the circumstances of the case.<sup>20</sup>
- (34) For the avoidance of doubt, the Applicant does not consider that there would be a contravention of the First Conduct Rule even if the Applicant and/or any of its members give effect to the Market Sales Survey.
- (a) The data in the Sales Survey Report would not raise any concerns regarding collusive or coordinated conduct amongst market participants in the pharmaceutical industry in Hong Kong.
    - (i) ***No competitively sensitive information.*** The data collected and distributed under the Market Sales Survey only covers total sales values in different segments, and does not contain individualised information on prices, sales volumes, stock keeping units or patient numbers. The data will also be processed and aggregated to remove competitively sensitive information before distribution through the Sales Survey Report. Specifically, as explained in paragraphs (26) to (27) above, the processing and aggregation of data effectively removes the competitive sensitivity in the data itself, or at the very least reduces it to a level that would not affect independent decision-making by pharmaceutical companies with regard to their actions in the market. The processed and aggregated data

<sup>19</sup> ***The term "relevant market" has a technical meaning in competition analysis and the manner in which the Commission defines the market may differ from how businesses typically think of a market. For information on the Commission's general approach to market definition, Applicants should consult Part 2 of the Commission's Guideline on the Second Conduct Rule.***

<sup>20</sup> Paragraph 6.45 of the FCR Guideline.

will only be distributed on a quarterly basis, thereby limiting the sensitivity of the information distributed. This means that the hypothetical risks of participants in the pharmaceutical industry using the information in the Sales Survey Report to carry out or monitor collusive activity are most unlikely.

(ii) **No impact on pricing.** Pharmaceutical companies in Hong Kong face significant pricing pressures on the sale of their products. The primary mode of distribution of most pharmaceutical products is through tenders in the public sector and individual purchase orders from healthcare service providers in the private sector. Purchasing decisions in respect of pharmaceutical products (including brand choice and quantities) are generally made and driven by medical professionals based on clinical evidence, ethical considerations, medical efficacy, safety profiles and patient needs. While the Sales Survey Report may assist medical professionals in their purchasing decisions, the Sales Survey Report will not enable pharmaceutical companies to gain any further influence on the price or quantities of their products to customers.<sup>21</sup>

(b) Many members of the Applicant do not have actual or even potential competitive relationships with each other. Exchanging information between such members would not raise concerns under paragraph 6.39 of the FCR Guideline.

(c) Even if certain members of the Applicant do have a competitive relationship with each other, the data in the Sales Survey Report would not contain information that can be considered as “competitively sensitive” as referred to in paragraph 6.39 of the FCR Guideline. The HKAPI Officer’s processing of the Collected Data effectively neutralises competitively sensitive information in the Sales Survey Report, as explained in paragraph (25)(c) and (26) above.

(35) More importantly, the Applicant believes that the Market Sales Survey would lead to enhancement in competition by allowing players in the pharmaceutical industry in Hong Kong to “*better predict how demand is likely to evolve*”, as indicated by the Commission in paragraph 6.38 of the FCR Guideline. The Applicant therefore believes that far from having the object or effect of harming competition in Hong Kong, the Market Sales Survey would assist in enhancing competition in the pharmaceutical industry in Hong Kong.

(36) Indeed, by starting the Market Sales Survey, the HKAPI would effectively become a new entrant in providing market research services for pharmaceutical products in Hong Kong. As such, the Market Sales Survey introduces competition into a market that currently has only a single player providing similar services. Discussion on the relevant market and the competitive conditions in the relevant market is further detailed in the following:

<b>Annex 8</b>	Annex to Form AD
<b>Annex 9</b>	ATC3 categories under the Market Sales Survey
<b>Annex 10</b>	[CONFIDENTIAL] Third party data source
<b>Annex 11</b>	[CONFIDENTIAL] Top customers of the Applicant’s full members
<b>Annex 12</b>	[CONFIDENTIAL] Third party data source

(37) Notwithstanding the above, the Applicant suspended its previous practice carrying out surveys that were similar to the Market Sales Survey in 2015 due to the legal uncertainty surrounding such a practice. There

<sup>21</sup> The Applicant notes that pharmaceutical companies generally do not have any influence over the quantities which medical professionals may decide to purchase or the price for which medical professionals may resell or charge for the product in question.



have been calls for the Applicant to resume its previous practice for the benefit of the pharmaceutical industry and patient welfare in Hong Kong and Macau.

- (38) The Applicant wishes to obtain legal certainty that, should the Commission consider that competition concerns could arise from the operation of the Market Sales Survey, the Economic Efficiency Exclusion applies. For the avoidance of doubt and as noted above, the Applicant does not consider that the operation of the Market Sales Survey would contravene the First Conduct Rule. The purpose of this Application is merely to bring legal certainty to the Applicant, its members and the pharmaceutical industry as a whole in respect of the future operation of the Market Sales Survey.

**4.2. Specify which exclusion(s) or exemption(s) the Applicant considers applicable to exclude or exempt the agreement or conduct in question from the First Conduct Rule and/or the Second Conduct Rule.<sup>22</sup> In particular, specify whether the agreement or conduct in question is:**

**4.2.1. excluded from the First Conduct Rule and/or the Second Conduct Rule pursuant to any of the General Exclusions in Schedule 1 to the Ordinance, namely:**

- (i) **section 1 (Agreements enhancing overall economic efficiency) of Schedule 1;**
- (ii) **section 2 (Compliance with legal requirements) of Schedule 1;**
- (iii) **section 3 (Services of general economic interest etc.) of Schedule 1;**
- (iv) **section 4 (Mergers) of Schedule 1;**
- (v) **section 5 (Agreements of lesser significance) of Schedule 1;**
- (vi) **section 6 (Conduct of lesser significance) of Schedule 1;**

**4.2.2. exempt from the First Conduct Rule pursuant to a block exemption order issued by the Commission under section 15 of the Ordinance. Applicants should specify the applicable block exemption order;**

**4.2.3. exempt from the First Conduct Rule or the Second Conduct Rule pursuant to an order of the Chief Executive in Council made under section 31 (Exemptions on public policy grounds) of the Ordinance or section 32 (Exemption to avoid conflict with international obligations) of the Ordinance. Applicants should specify the applicable order of the Chief Executive in Council; and/or**

**4.2.4. excluded from the First Conduct Rule or the Second Conduct Rule as a result of the exclusion in section 3 (Application to statutory bodies) of the Ordinance or the exclusion in section 4 (Application to specified persons and persons engaged in specified activities) of the Ordinance. Applicants should specify any applicable Regulation made by the Chief Executive in Council under section 5 of the Ordinance.**

- (39) As explained in paragraphs (3) and (37) above, this Application seeks a decision as regards whether the Economic Efficiency Exclusion applies to the Market Sales Survey, insofar as the First Conduct Rule is applicable to the Market Sales Survey or the Applicant and/or its members giving effect to the Market Sales Survey.

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<sup>22</sup> Applicants are referred to the Annexes to the Commission's Guideline on the First Conduct Rule and Guideline on the Second Conduct Rule.

- 4.3. ***Explain why the exclusion(s) or exemption(s) specified at paragraph 4.2 above applies to the agreement or conduct in question and how the conditions (if any) attaching to the relevant exclusion(s) or exemption(s) are satisfied. The Applicant should attach and refer to relevant supporting documentation where necessary.***<sup>23</sup>

***Applicants should note in particular that arguments that an agreement is excluded from the application of First Conduct Rule by or as a result of section 1 (Agreements enhancing overall economic efficiency) of Schedule 1 of the Ordinance must be substantiated with supporting evidence of the relevant efficiencies concerned.***<sup>24</sup>

- (40) The Applicant believes that all the requirements of the Economic Efficiency Exclusion are satisfied in respect of the Market Sales Survey, and the decision to resume the Market Sales Survey should therefore be excluded as a decision of a trade association enhancing overall economic efficiency. This is because:
- (a) the Market Sales Survey contributes to improving production or distribution or promoting economic progress;
  - (b) consumers receive a fair share of the efficiencies;
  - (c) the Market Sales Survey does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the relevant efficiencies; and
  - (d) the Market Sales Survey does not afford undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services in question.
- (41) Before discussing these reasons in turn below, we highlight a number of characteristics in the pharmaceutical industry in Hong Kong that are important in understanding the context in which economic efficiencies from the Market Sales Survey arise.

#### **I. Key characteristics of the pharmaceutical industry in Hong Kong**

- (42) In addition to the market characteristics discussed in **Annex 8**, there are a number of characteristics in the pharmaceutical industry in Hong Kong that are particularly relevant to the assessment of economic efficiencies arising from the Market Sales Survey:
- (a) ***Commercial decisions of pharmaceutical companies in Hong Kong are often made overseas.*** Research and development decisions, as well as the manufacture, of pharmaceutical products are generally not made in Hong Kong, but in other jurisdictions with advanced healthcare technology, for instance, in the US, Europe and Japan. The majority of pharmaceutical products in Hong Kong and Macau are imported from overseas (especially prescription drugs), and most players in the pharmaceutical industry in Hong Kong are multinational companies. Commercial decisions (including decisions to introduce new products into Hong Kong) of such multinational companies are often made at their overseas headquarters, thereby requiring time, effort and justification before commercial decisions can be made.

<sup>23</sup> ***Where the Application is for a decision that the agreement or conduct in question is excluded from the application of the First Conduct Rule and/or the Second Conduct Rule by or as a result of section 5 (Agreements of lesser significance) and/or section 6 (Conduct of lesser significance) of Schedule 1 to the Ordinance, to the extent the relevant turnover is not already provided under paragraph 2.3 above, copies of audited annual reports, accounts and/or equivalent documents showing the turnover for the relevant turnover period in accordance with the Ordinance and the Competition (Turnover) Regulation (Cap 619C) should be attached as supporting documentation to Form AD. Further guidance on the calculation of turnover for this purpose is available in the Commission's guidance on How to Assess "Turnover" for Exclusions from the Competition Ordinance Conduct Rules.***

<sup>24</sup> ***Applicants are referred to the Annex to the Commission's Guideline on the First Conduct Rule.***

- (b) ***New product launches can require investment.*** The pharmaceutical industry in Hong Kong is a heavily regulated industry.<sup>25</sup> Introducing new pharmaceutical products into Hong Kong can sometimes require time and investment by pharmaceutical companies to meet the regulatory and medical requirements in Hong Kong. In addition, time and investment is required for carrying out clinical trials before the requisite approvals can be granted in Hong Kong. For instance, all pharmaceutical products sold in Hong Kong are required to conform to the standards on safety, efficacy and quality before registration can be obtained.<sup>26</sup> Also, pharmaceutical companies need to invest effort in educating Hong Kong medical professionals on the use of new drugs, as they are the key decision makers in prescribing particular therapies to patients rather than patients themselves.
- (c) ***Lead-time in stocking decisions.*** Commercial decisions to stock products into Hong Kong need a lead-time before new stock can be brought into Hong Kong. For certain pharmaceutical products, it can take more than 24 months between the Hong Kong office of a pharmaceutical company placing an internal order for the manufacture of the product and the actual delivery of the manufactured product to Hong Kong. The reason for the long lead-time can be due to the time required to make the raw and packaged product by the global manufacturing plant, which is located overseas. Given the long lead-time in the arrival of stock to be used in Hong Kong, many pharmaceutical companies in Hong Kong need to plan their stocking decisions well in advance of the time when the actual need arises.
- (d) ***General lack of market transparency.*** There are currently a very limited number of sources for market data on the pharmaceutical industry in Hong Kong. There are a number of general market research service providers that offer market data on the pharmaceutical industry in Hong Kong on an ad hoc basis. However, the Applicant understands that the only regular provider of market research service for the pharmaceutical industry in Hong Kong is IQVIA, which operates in Hong Kong through IMS Chinametrik Ltd (“**IMS**”). Since the Applicant suspended the Market Sales Survey in 2015, the Applicant understands IMS to be the sole provider of market data in the pharmaceutical industry in Hong Kong.<sup>27</sup>
- (e) ***Heavy reliance on market data for commercial decisions.*** Without market data, commercial decisions of pharmaceutical companies, and hence competition in the pharmaceutical industry in Hong Kong, are hampered in a number of ways. In particular, in the absence of market data:
- (i) Some pharmaceutical companies may be unable to predict future demand of pharmaceutical products. Without data on historical sales of pharmaceutical products in particular therapeutic classes, pharmaceutical companies are left to make decisions to stock future products on a “guesstimate” of current and future market demand without accurate market data in support. Naturally, inaccurate estimation of market demand could lead to inefficiencies such as over-stocking or under-stocking of pharmaceutical products in Hong Kong. Over-stocking may lead to write-offs of excess stock, the costs of which may in turn be passed on to customers; under-stocking may lead to patients being deprived of life-saving pharmaceutical products prescribed for them. The inaccuracy is

<sup>25</sup> For instance, in Hong Kong, legislation applicable to the pharmaceutical industry include: Undesirable Medical Advertisements Ordinance (Cap 231), Pharmacy and Poisons Ordinance (Cap 138), Antibiotics Ordinance (Cap 137), Dangerous Drugs Ordinance (Cap 134), Public Health and Municipal Ordinance (Cap 132). Pharmaceutical companies in Hong Kong may also be subject to codes of practice or conduct, such as those issued by the Applicant and those of the International Federation of Pharmaceutical Manufacturers & Associations; see: <http://www.hkapi.hk/practice.asp>; <https://www.ifpma.org/resource-centre/ifpma-code-of-practice/>; <https://www.ifpma.org/subtopics/code-of-practice-2/>.

<sup>26</sup> For detailed information on the registration process, see: [http://www.drugoffice.gov.hk/eps/do/en/doc/guidelines\\_forms/guid.pdf](http://www.drugoffice.gov.hk/eps/do/en/doc/guidelines_forms/guid.pdf).

<sup>27</sup> For details, see Section A.2 of **Annex 8**.

amplified due to the long lead-times between the order and delivery of pharmaceutical products into Hong Kong.

- (ii) Pharmaceutical companies may choose not to make investments in Hong Kong, purely by reason that business cases to do so are inadequately supported by accurate market data. This is aggravated by the fact that Hong Kong is generally considered as a small market requiring time and investment from the headquarters of pharmaceutical companies. In addition, inability to predict future demand for particular pharmaceutical products that are currently absent in Hong Kong may hinder the ability of companies to identify viable business opportunities in the market, thereby depriving patients of healthcare options that are already available in other countries with advanced healthcare.
- (iii) Pharmaceutical companies have no means of benchmarking their past sales performance against those of their competitors. This hinders competition in the market, as pharmaceutical companies are often unable to assess competitive conditions and develop commercial strategies

- (43) The Market Sales Survey specifically addresses or alleviates the above shortcomings currently existing in the pharmaceutical market in Hong Kong.

## **II. Contributes to improving production or distribution or promoting economic progress**

- (44) The Market Sales Survey and the availability of the Sales Survey Report would contribute to improving production or distribution and promoting economic progress by providing access to regular, reliable and affordable market information that is based on real sales data whilst not leading to anti-competitive concerns. The availability of such market data would facilitate the following:
- (a) Better, more efficient allocation of stock for existing products.
  - (b) Easier introduction of new products into the market.
  - (c) Enhanced marketing and distribution efforts of pharmaceutical companies.
  - (d) Greater investments in other patient welfare enhancing activities.
  - (e) Development of public policy, academia and research and development generally.
- (45) For illustration purposes, anecdotal examples of how the Market Sales Survey and the availability of the Sales Survey Report may bring about such benefits are set out in the following:

### **Annex 13** Examples of benefits brought about by the Market Sales Survey

#### **A. Allows better, more efficient allocation of stock for existing products**

- (46) As mentioned in paragraph (42)(e)(i) above, the ability of pharmaceutical companies to accurately forecast the demand of drugs in Hong Kong is crucial to maintaining an adequate stock of pharmaceutical products in Hong Kong. This is particularly the case in terms of assessing the timing for such decisions and the quantities to be ordered. Inability to accurately forecast demand trends may result in wastage situations. In particular:
- (a) Failure to accurately anticipate demand of pharmaceutical products may result in over-estimating the demand for such products. This may lead to stocking decisions for volumes that are considerably higher than the actual demand for a product. As pharmaceutical products become over-stocked and demand of such products may not increase even if prices are lowered, products eventually expire and need to be destroyed as they cannot be used. Pharmaceutical companies eventually need to recoup such losses by other means.

- (b) Failure to accurately anticipate demand of pharmaceutical products may also result in under-estimating the demand of such products. This may lead to stocking decisions with volumes that are considerably lower than the actual demand of the product. As demand for particular pharmaceutical products considerably exceed stock available in the market to satiate such demands, this may lead to undesirable consequences for the general public and healthcare providers.<sup>28</sup>
- (47) In other words, enhancing pharmaceutical companies' ability to forecast demand of pharmaceutical products in Hong Kong would generally help avoid stock write-offs and out-of-stock situations for customers of pharmaceutical products. This serves to improve production or distribution and promoting economic progress in the pharmaceutical industry in Hong Kong. Importantly, it helps ensure a sufficient stock of life-saving pharmaceutical products to be generally available in Hong Kong, without which patients' lives may be endangered.
- (48) Generally speaking, forecasting demand of pharmaceutical products in Hong Kong involves techniques including both qualitative methods (e.g. clinical guidelines) and quantitative methods (e.g. the use of historical sales data and statistical techniques or current market data). Forecasting the growth and decline of the demand of particular therapeutic areas would become considerably more difficult in the absence of historical sales data and current market data, as there would be no basis for using quantitative methods of forecasting demand. The availability of historical sales data is therefore crucial in production planning, inventory management, and at times in assessing future capacity requirements.
- (49) As detailed below, market data currently provided by IMS does not cover certain therapeutic areas and sectors in the market. The Applicant understands that IMS relies on market data provided by certain pharmaceutical company customers as well as in-house market research carried out within IMS. However, there may be discrepancies between IMS data and actual sales data when pharmaceutical companies who subscribe to IMS data compare IMS data with their own sales figures. In addition, the level of charges of IMS are understood by the Applicant to be prohibitive to certain pharmaceutical companies with limited budgets for market information.<sup>29</sup> Higher charges for data in turn add to the cost for pharmaceutical companies, which would ultimately be borne by customers.
- (50) The data in the Sales Survey Report fills the role of providing reliable affordable, accurate and up-to-date source of relevant historical sales data, at a reasonable cost. Data from the Market Sales Survey therefore enables affordable and better market forecasting and reduces forecast errors, thereby allowing better allocation of stock for existing products.

#### **B. Facilitates the introduction of new products into the market in Hong Kong**

- (51) The ability to predict future demand of pharmaceutical products in Hong Kong is also critical to a pharmaceutical company's decision on whether to introduce new pharmaceutical products into Hong Kong, thereby enhancing the availability of better quality, more effective, targeted or innovative pharmaceutical products in Hong Kong. Unless pharmaceutical companies understand local treatment trends, needs of customers and the potential to bring better solutions into Hong Kong, pharmaceutical companies may be reluctant to introduce new pharmaceutical products into Hong Kong. This problem is especially acute for pharmaceutical products used to treat rare diseases, where pharmaceutical companies will likely be very reluctant to introduce new products without knowing the size of the market, due to the limited demand for such products and the high investments required for introduction.

<sup>28</sup> When life-saving products are in short supply, hospitals, pharmacies and doctors have to make considerable efforts to manage the limited product they have on stock. Hence, undesirable consequences arising from failure to accurately anticipate demand are not only limited to patients not having sufficient medicine, but also a heavier workload for hospital, pharmacies and doctors.

<sup>29</sup> The Applicant understands that [CONFIDENTIAL – pricing information].

- (52) As mentioned in paragraph (42)(a) above, decisions to introduce new pharmaceutical products often take place at the headquarters of pharmaceutical companies, which are typically overseas. Due to the considerable investments required before a new pharmaceutical product can be introduced into Hong Kong, the headquarters of multinational pharmaceutical companies are generally reluctant to introduce new pharmaceutical products in Hong Kong: due to the relatively small size of the pharmaceutical market in Hong Kong, the corresponding investment to introduce a new product can be prohibitively high, in relative terms to larger economies. Local management of multinational pharmaceutical companies in Hong Kong therefore generally need a solid, quantified, basis to demonstrate the commercial potential and feasibility of introducing new pharmaceutical products, in order to justify the considerable time and investment required for introducing new pharmaceutical products.
- (53) A solid basis to demonstrate the commercial feasibility of introducing new pharmaceutical products is the data in the Sales Survey Report. The Sales Survey Report can serve as a reliable, accurate and up-to-date (in quarterly terms) source of relevant market data in Hong Kong that is organised into sectors that are useful to pharmaceutical companies (i.e. "Public", "Private", "Trade", "Macau" sectors). This would enable analysis on potential market opportunities, as well as projections of the total market size in the future. With such analysis and projections, local management of multinational pharmaceutical companies in Hong Kong would have a much better grasp of the local market conditions and reliable market forecasting data to substantiate such analysis in persuading the headquarters of multinational pharmaceutical companies to introduce new pharmaceutical products in Hong Kong. The data would also help pharmaceutical companies define their launch strategy, estimate the marketing or medical investment required and prepare for hiring staff to support such efforts.
- (54) The Applicant understands that, since the suspension of a survey in 2015, multinational pharmaceutical companies have experienced greater difficulty in their decisions to launch new products into the market in Hong Kong. For instance, when deciding whether to launch a new product into Hong Kong, a key consideration of some pharmaceutical companies may be whether the total market size for that type of product exceeds a certain threshold (e.g. HKD 5 million), and they would only launch the product if they are sufficiently certain that the threshold is exceeded. Without the market data to assess the size of the market, some companies may simply decide not to launch new products, or delay product launch until there is sufficient information on the size of the market.
- (55) Without the Market Sales Survey, pharmaceutical companies could only rely on data currently provided by IMS. However, the market data provided by IMS may not fully cover certain therapeutic classes in Hong Kong, and it splits the market data in different ways. The charges of IMS may not be affordable to certain pharmaceutical companies with limited budgets for market information. Without the Sales Survey Report, pharmaceutical companies experienced difficulty because they no longer had access to affordable and accurate market data in Hong Kong.
- (56) The data in the Sales Survey Report will provide a reliable, affordable, accurate, useful and up-to-date source of relevant market data in Hong Kong. Data from the Market Sales Survey is therefore a key reference factor that enables market analysis and better understanding of the pharmaceutical market in Hong Kong, thereby facilitating the introduction of new products into the local market. This serves to improve production or distribution and promoting economic progress in the pharmaceutical industry in Hong Kong.

### **C. Enhances marketing and distribution efforts of pharmaceutical companies**

- (57) In terms of breaking down sales data, for instance, in particular therapeutic areas, the Sales Survey Report allows pharmaceutical companies to focus its market assessment efforts into particular therapeutic areas, which would in turn lead to the development, organisation and deployment of sales forces and marketing efforts that are more effective and focused on specific therapeutic areas particularly those requiring improvement. This allows pharmaceutical companies to efficiently assess, benchmark

and analyse the sales performance of its products vis-à-vis the performance of their competitors. In turn, this helps pharmaceutical companies develop and better focus its marketing and sales strategies to improve its activities in Hong Kong, thereby leading to efficiencies in sales and distribution.

- (58) As mentioned above, for pharmaceutical companies with smaller budgets for market data, the costs for IMS data are not affordable, and since conducting market research on its own requires considerable time and effort, there is effectively a barrier for such companies to efficiencies that may be otherwise available to other pharmaceutical companies with larger budgets for market data. The reliability and affordability of the market data in the Sales Survey Report would therefore greatly enhance the efficiency and effectiveness of marketing and distribution efforts of more pharmaceutical companies.

#### **D. Encourages investment in patient welfare enhancing activities**

- (59) By reason of matters set out in paragraphs (46) to (50), the Market Sales Survey enables greater cost savings for pharmaceutical companies, thereby encouraging regional and global headquarters of multinational pharmaceutical companies to invest in other consumer welfare enhancing activities to the benefit of patients in Hong Kong.
- (60) Such consumer welfare enhancing activities can be in the form of new clinical trials, more educational programmes to medical practitioners etc., thereby leading to better standards of care for patients in Hong Kong. This would help improve or promote economic progress in the healthcare sector.

#### **E. Conducive to the development of public policy, academia and research and development**

- (61) For government or public bodies involved in the procurement of pharmaceutical products, such as the Hospital Authority or Invest Hong Kong, the Sales Survey Report provides accurate, reliable market data to public policy decision makers. This facilitates more reliable assessments as to the size, conditions and trends of the pharmaceutical industry in Hong Kong and identifies areas requiring public policy efforts in encouraging investment or development in order to achieve outcomes that may benefit the general public.
- (62) For academics or medical professionals, the Sales Survey Report provides accurate, reliable market data in Hong Kong that allows them to assess the size, conditions and trends of the pharmaceutical market (and particular segments) in Hong Kong for academic research and development purposes.

### **III. Consumers receive a fair share of the efficiencies**

- (63) Customers of the Market Sales Survey, in particular pharmaceutical companies, will receive a fair share of the efficiencies by benefiting from:
- (a) better allocation of stock for existing products;
  - (b) facilitating the introduction of new products into the market, thereby enhancing the availability of better quality, more effective or innovative pharmaceutical products in Hong Kong;
  - (c) enhancing marketing and distribution efforts of pharmaceutical companies;
  - (d) encouraging investments in other consumer welfare enhancing activities to the benefit of patients in Hong Kong; and
  - (e) facilitating the development of public policy, academia and research and development generally.
- (64) For purposes of illustration, anecdotal examples of how customers of the Market Sales Survey may benefit from the efficiencies brought about by the Market Sales Survey are set out in **Annex 13**.
- (65) The Market Sales Survey also ultimately benefits the wider community, in particular patients, in Hong Kong, especially in terms of introduction and/or continued supply of drugs that may be introduced by

reason of the Market Sales Survey and the additional consumer welfare enhancing activities generally benefiting patients in Hong Kong.

- (66) Such benefits are likely to far outweigh the minimal effect on competition associated with the Market Sales Survey (if any) and flow to all stakeholders in the pharmaceutical industry, and in turn the patients using pharmaceutical products, in Hong Kong. Ultimately, there would only be positive effects brought about by the Market Sales Survey.

**IV. Does not impose on the undertakings concerned restrictions that are not indispensable to the attainment of the relevant efficiencies**

- (67) The Market Sales Survey is reasonably necessary to achieve the efficiencies discussed above. The Applicant submits that there are no other economically practicable and less restrictive means of achieving the claimed efficiencies.

- (68) In addition, the operation and requirements of the Market Sales Survey do not go beyond what is required to attain the efficiencies. The Applicant believes that the Market Sales Survey does not purport to share more information or information that is more specific than is necessary to attain the efficiencies for the following reasons:

(a) As explained in paragraphs (26) to (28) above, the aggregated data in the Sales Survey Report will already be reduced to a level that would not affect independent decision-making by pharmaceutical companies with regard to their actions in the market, and, in the Applicant's view, the data in the Sales Survey Report will already be aggregated to a greater extent than what is currently legally available in overseas jurisdictions.

(b) Further aggregating the data to the extent proposed (for example, by collapsing "Government", "Private" and "Trade" sectors into a single "Hong Kong" sector) will considerably reduce the usefulness of the data in respect of giving effect to the efficiencies highlighted in (44) to (62) above. For instance, if the degree of aggregation is increased by aggregating different product brands in the same therapeutic class into the same data entry, pharmaceutical companies would not be able to identify and assess the sales of each product category, such that pharmaceutical companies will not be able to efficiently assess, benchmark and analyse the sales performance of its products vis-à-vis the performance of their competitors, which may hamper the efficiency and effectiveness of enhancing marketing and distribution efforts of more pharmaceutical companies.

(c) In addition, the Applicant notes that IMS already provides a degree of transparency to market information in the Hong Kong pharmaceutical industry. The additional operation of the Market Sales Survey would not increase the risk of competition concerns by any significant extent.

- (69) The Market Sales Survey therefore represents the least restrictive means of achieving the efficiencies discussed above.

**V. Does not afford undertakings concerned the possibility of eliminating competition in respect of a substantial part of the goods or services in question**

- (70) The Market Sales Survey does not give pharmaceutical companies the possibility of eliminating effective competition in the market for pharmaceutical products in Hong Kong. There is fierce competition existing in the healthcare sector in Hong Kong. In particular, the Market Sales Survey will provide pharmaceutical companies with a limited budget in Hong Kong with market information that they may otherwise be unable to access, thereby enabling them to achieve the economic efficiencies described in paragraphs (46) to (62) above, and, in turn, to compete more effectively with pharmaceutical companies with larger budgets.



- (71) In view of the nature of competition in the pharmaceutical industry, the Market Sales Survey does not eliminate or reduce competition in Hong Kong.
- (72) In respect of the market for market research services, the Applicant has no intention of prohibiting its members or non-member pharmaceutical companies who volunteer sales data for the Market Sales Survey from volunteering similar data to third parties for market research purposes.
- (73) As explained in paragraphs (32), (33) and (62) of **Annex 8**, many pharmaceutical companies would prefer obtaining both data from IMS and the Applicant, because the data from IMS and the data from the Market Sales Survey are generally complementary to each other, and each may fill in information gaps which the other may not provide.

## SECTION 5: Suitability Factors<sup>30</sup>

### 5.1. *Explain why the Application:*

**5.1.1. *poses novel or unresolved questions of wider importance or public interest in relation to the application of exclusions or exemptions under the Ordinance; and***

**5.1.2. *raises a question of an exclusion or exemption under the Ordinance for which there is no clarification in existing case law or decisions of the Commission.***

- (74) The Applicant submits that the factors listed in section 9(2) of the Ordinance are met because:
- (a) this Application poses a novel and unresolved question of wider importance and/or public interest in relation to the application of the Economic Efficiency Exclusion;
  - (b) there is presently no clarification in existing case law or decisions of the Commission relating to the application of the Economic Efficiency Exclusion; and
  - (c) it is possible for the Commission to make a decision on the basis of the information provided in this Application.
- (75) This Application poses a novel and unresolved question of wider importance and/or public interest in relation to the application of the Economic Efficiency Exclusion. This Application is, to the knowledge of the Applicant, the first application seeking a decision from the Commission involving the Economic Efficiency Exclusion. The application of the Ordinance to the Market Sales Survey has never before been considered by the Commission or Competition Tribunal. Similarly, the application of the Economic Efficiency Exclusion to the Market Sales Survey is of wider importance and/or public interest. More specifically, it is important for the entire healthcare industry to have legal certainty that the operation of the Market Sales Survey will not give rise to challenge under the Ordinance.
- (76) While the Commission has provided valuable guidance on the application of the Ordinance in situations where information is shared between competitors in the FCR Guideline and the Statement of Reasons dated 8 August 2017 in respect of the Commission's decision to issue the Competition (Block Exemption For Vessel Sharing Agreements) Order 2017, there is presently no existing case law or decisions of the Competition Tribunal relating to any agreement to share information between competitors.
- (77) The Applicant believes that this Application provides sufficient information to enable the Commission to make a decision on this Application. Should the Commission require further information or clarification, the Applicant would be happy to assist.
- (78) In any event, this Application does not concern hypothetical questions or agreements, because the Applicant has already passed a resolution to proceed with the Market Sales Survey pending the Commission's satisfactory decision, and the questions raised in this Application are real issues flowing from such resolution.

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<sup>30</sup> See paragraphs 6.4 to 6.11 of the Commission's Guideline on Applications for a Decision under Sections 9 and 24 (Exclusions and Exemptions) and Section 15 Block Exemption Orders for further information on the Suitability Factors.

**SECTION 6:****Submissions or Applications to Competition Authorities in Other Jurisdictions**

- 6.1. State whether any submission or application has been made to a competition authority in another jurisdiction in relation to the agreement or conduct in question. If so, in each case:**
- 6.1.1. indicate the authority or authorities involved in such submission or application; and**
- 6.1.2. provide information on when such submission or application was made, the file number(s) issued by the relevant authority or authorities (if any) and a summary of the status of the submission or application in the jurisdiction concerned.**
- (79) No submission or application has been made to a competition authority in another jurisdiction in relation to the Market Sales Survey.

**SECTION 7:  
Other Information**

**7.1. Provide any other information or supporting documentation that would enable the Commission to have a better understanding of the merits of the Application.**

(80) Supporting information and documentation referred to throughout the Application is provided in the annexes to the Application. Should the Commission require further information or clarification, the Applicant would be happy to assist.

**7.2. Provide details of steps taken to notify any other relevant party or parties that the Application is being submitted. Indicate whether any of those parties have received a copy of the Application and if so, whether confidential information was included in the copy. If the Applicant considers that it is not practicable to notify, or there are other reasons for not notifying, other relevant parties of the Application, explain why that is the case.**

(81) Members of the Applicant have been informed of this Application.

## SECTION 8: Signature and Declaration

- 8.1. Conclude the Form AD with the date of the Application and the name and signature of the Applicant, a senior officer of the Applicant authorised to sign on its behalf or the Applicant's legal representative.**

This Application is dated 31 January 2019.

Signature: [CONFIDENTIAL – signature of the authorised representative of the Applicant]

Name: Sabrina Chan

Authorised representative of the Applicant

- 8.2. This must be followed by the declaration below which should be made and signed by the Applicant or the authorised officer of the Applicant.**

*I understand that under section 172 of the Ordinance, it is an offence to provide any information that is false or misleading in a material particular to the Commission under the Ordinance if the person providing it knows that it is false or misleading, or is reckless as to whether it is. I also understand that if the person committing the offence is a body corporate, its officers may be guilty of an offence under section 175 of the Ordinance.*

*I believe that, as regard, this Application and all supporting documentation attached hereto:*

- (a) all information provided is true, complete and correct;*
- (b) all estimates are identified as such and are best estimates of the Applicant based on the underlying facts; and*
- (c) all opinions expressed are honestly held.*

I understand that under section 172 of the Ordinance, it is an offence to provide any information that is false or misleading in a material particular to the Commission under the Ordinance if the person providing it knows that it is false or misleading, or is reckless as to whether it is. I also understand that if the person committing the offence is a body corporate, its officers may be guilty of an offence under section 175 of the Ordinance.

I believe that, as regard, this Application and all supporting documentation attached hereto:

- (a) all information provided is true, complete and correct;
- (b) all estimates are identified as such and are best estimates of the Applicant based on the underlying facts; and
- (c) all opinions expressed are honestly held.

Signature: [CONFIDENTIAL – signature of the authorised representative of the Applicant]

Name: Sabrina Chan

Authorised representative of the Applicant

**Annex 1:**  
**[CONFIDENTIAL]**  
**Letter of Authorisation**

## **Annex 2: Full members of the Applicant**

## Annex 2

## Full members of the Applicant

The names and contact details of the 38 full members of the Applicant as of January 2019 are:

Name of Full Member	Contact Person	Contact Details	Telephone	Address
1. A. Menarini Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		20/F, Crocodile Centre, 79 Hoi Yuen Road, Kwun Tong, Kowloon
2. AbbVie Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 2405-08, 24/F, AIA Tower, 183 Electric Road, North Point, Hong Kong
3. Allergan Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Suites 1309-10 & Pt 8, Cityplaza Four 12 Taikoo Wan Road, Taikoo Shing, Island East, Hong Kong
4. Amgen Asia Holding Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Suites 408-12, 4/F One Island East, 18 Westlands Road, Hong Kong
5. Astellas Pharma Hong Kong Company Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 1103-08, 11/F Tower 1, Grand Century Place, 193 Prince Edward Road West, Mongkok, Kowloon
6. Astrazeneca Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 1-3, 11/F, 18 King Wah Road, North Point, Hong Kong
7. B. Braun Medical (H.K.) Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit Nos. 13-18, Level 35 Tower 1 Millennium City 1, No. 388 Kwun Tong Road, Kwun Tong, Kowloon
8. Baxter Healthcare Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Suites 2701-3, 27/F Oxford House, Taikoo Place, 979 King's Road, Island East, Hong Kong



Name of Full Member	Contact Person	Contact Details	Telephone	Address
9. Bayer HealthCare Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		14/F, Oxford House, 979 King 's Road, Quarry Bay, Hong Kong
10. Boehringer Ingelheim (HK) Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		1504-9, Great Eagle Centre, 23 Harbour Road, Wanchai, Hong Kong
11. Bristol-Myers Squibb Pharma (HK) Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Room 3001-3002, 30/F Windsor House, 311 Gloucester Road, Causeway Bay, Hong Kong
12. Celgene Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		26/F Chubb Tower, Windsor House, 311 Gloucester Road, Causeway Bay, Hong Kong
13. Clinigen Healthcare		[CONFIDENTIAL – contact details of the full member of the Applicant]		c/o Zuellig Pharma Limited, Suite 608, 6/F Devon House, Taikoo Place, Quarry Bay, Hong Kong
14. CSL Behring Asia Pacific Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 4205-08, AIA Tower, 183 Electric Road, North Point, Hong Kong
15. Daiichi Sankyo Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Room 1801, 18/F One Hysan Avenue, Causeway Bay, Hong Kong
16. Eisai (HK) Co Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit D, 18/F @Convoy, 169 Electric Road, North Point, Hong Kong
17. Eli Lilly Asia Inc		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 3203-06, 32/F, CHUBB Tower, Windsor House, 311 Gloucester Road, Causeway Bay, Hong Kong
18. Ferring Pharmaceuticals Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Suites 2604-5 26th Floor, AXA Tower Landmark East, 100 How Ming Street, Kwun Tong, Kowloon

Name of Full Member	Contact Person	Contact Details	Telephone	Address
19. Fresenius-Kabi H.K. Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Room 5001-5027 50/F, Sun Hung Kai Centre, 30 Harbour Road, Wanchai, Hong Kong
20. Gilead Sciences Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Room 2603, 26/F Hysan Place, 500 Hennessy Road, Causeway Bay, Hong Kong
21. GlaxoSmithKline Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		23/F Tower 6, The Gateway, 9 Canton Road, Tsim Sha Tsui, Kowloon
22. Ipsen Hong Kong		[CONFIDENTIAL – contact details of the full member of the Applicant]		11/F, Wyler Centre 1, 202-210 Tai Lin Pai Road, Kwai Chung, Hong Kong
23. JANSSEN, a Division of JOHNSON & JOHNSON (HK) LTD.		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 1302-07, Tower 1 Grand Century Place, 193 Prince Edward Road West, Mongkok, Kowloon
24. Kyowa Hakko Kirin (Hong Kong) Co., Ltd.		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit B, 13/F @Convoy, 169 Electric Road, North Point, Hong Kong
25. Medinova AG		[CONFIDENTIAL – contact details of the full member of the Applicant]		23/F Tower A, Southmark, 11 Yip Hing Street, Wong Chuk Hang, Hong Kong
26. Medreich Far East Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 809, 8/F Tai Yau Building, No. 181 Johnston Road, Wanchai, Hong Kong
27. Merck Pharmaceutical (HK) Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		11/F Elite Centre, 22 Hung To Road, Kwun Tong, Kowloon
28. Merck Sharp & Dohme (Asia) Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		27/F Lee Garden Two, 28 Yun Ping Road, Causeway Bay, Hong Kong
29. Mundipharma (Hong Kong) Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Units 801B-802A, 8/F Tower B, Manulife Financial Centre, 223-231 Wai Yip Street, Kwun Tong, Kowloon

Name of Full Member	Contact Person	Contact Details	Telephone	Address
30. Novartis Pharmaceuticals (HK) Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		27/F, 1063 King's Road, Quarry Bay, Hong Kong
31. Novo Nordisk Hong Kong Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 519, Trade Square, 681 Cheung Sha Wan Road, Kowloon
32. Otsuka Pharmaceutical (H.K.) Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		21/F, East Exchange Tower, 38 Leighton Road, Causeway Bay, Hong Kong
33. Reckitt Benckiser Hong Kong Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Rm 25/F., Chubb Tower, Windsor House, 311 Gloucester Road, Causeway Bay, Hong Kong
34. Roche Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		24/F Lee Garden Two, 28 Yun Ping Road, Causeway Bay, Hong Kong
35. Sanofi-Aventis Hong Kong Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		Units 706-710, Level 7 Core C, Cyberport 3, 100 Cyberport Road, Hong Kong
36. Servier Hong Kong Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Room 4201-03, 42/F Sunlight Tower, 248 Queen's Road East, Wanchai, Hong Kong
37. Takeda Pharmaceuticals (Hong Kong) Limited		[CONFIDENTIAL – contact details of the full member of the Applicant]		23-24/F, East Exchange Tower, 38 Leighton Road, Causeway Bay, Hong Kong
38. UCB Pharma (HK) Ltd		[CONFIDENTIAL – contact details of the full member of the Applicant]		Unit 3713-18 37/F, Tower 1 Millennium City 1, 388 Kwun Tong Road, Kwun Tong, Kowloon

**Annex 3:**  
**[CONFIDENTIAL]**  
**2017 Audited annual accounts of the**  
**Applicant**

## **Annex 4:**

**[CONFIDENTIAL]**

**List of the full members of the Applicant  
who purchased the Applicant's survey in  
2015**

**Annex 5:**  
**[CONFIDENTIAL]**  
**Resolution**

# **Annex 6: Sample Sales Survey Report**

## Sales (HK\$) by Company covering Jan-Mar 2017

**EXAMPLE**

Sector	Government		Private		Trade		Macau		Total	
	Company	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales
A Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
C Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
D Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
E Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
F Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
G Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
H Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
I Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
J Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
K Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
L Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
M Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
N Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
O Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
P Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
Q Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
R Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
S Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
T Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
U Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
V Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
W Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
Z Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>



# Sales (HK\$) by Company covering Jan-Mar 2017 (Prescription)

# EXAMPLE

## Sales (HK\$) by Company (Jan-Mar 2017) (Prescription)

Sector	Government		Private		Trade		Macau		Total	
	Company	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales
A Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
C Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
D Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
E Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
F Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
G Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
H Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
I Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
J Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
K Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
L Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
M Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
N Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
O Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
P Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
Q Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
R Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
S Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
T Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
U Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
V Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
W Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
Z Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

# Sales (HK\$) by Company covering (Jan-Mar 2017) (Prescription)

# EXAMPLE

## Sales (HK\$) by Company Jan-Mar 2017 (Prescription)

Sector	Government		Private		Trade		Macau		Total	
	Company	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales
A Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
C Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
D Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
E Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
F Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
G Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
H Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
I Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
J Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
K Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
L Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
M Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
N Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
O Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
P Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
Q Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
R Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
S Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
T Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
U Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
V Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
W Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
Z Company	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Sales (HK\$) by Therapeutic Area covering Jan-Mar 2017

**EXAMPLE**

<i>Sales (HK\$) by Therapeutic Area Jan-Mar 2017</i>											
<i>Sector</i>		<i>Government</i>		<i>Private</i>		<i>Trade</i>		<i>Macau</i>		<i>Total</i>	
<i>Therapeutic Area</i>	<i>Therapeutic Code</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>
ALL OTHER CYTOSTATICS	L1X	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
PURE VACCINES	J7A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-RHEUMATICS, NON-STEROIDAL	M1	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-EPILEPTICS	N3A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIMETABOLITES	L1B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
HIV ANTIVIRALS	J5C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIULCERANTS	A2B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIPSYCHOTICS	N5A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
IMMUNOSUPPRESSIVE AGENTS	L4A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
EMOLLIENTS, PROTECTIVES	D2A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
DPP-IV INHIBITOR ANTIDIABETICS	A10N	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
NON-NARCOTICS AND ANTI-PYRETICS	N2B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-DEPRESSANTS	N6A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
BONE CALCIUM REGULATORS	M5B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANGIOTENSIN-II ANTAGONISTS, PLAIN	C9C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
PLATELET AGGREGATION INHIBITORS	B1C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CALCIUM ANTAGONISTS, PLAIN	C8A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ERYTHROPOIETIN PRODUCTS	B3C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTICOAGULANTS NON-INJECTABLE	B1A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
COMBINATIONS OF VACCINES	J7B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
HORMONAL CONTRACEPTIVES, SYSTEMIC	G3A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CEPHALOSPORINS	J1D	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
OTHER DERMATOLOGICAL PREPARATIONS	D11A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
OCULAR ANTINEOVASC. PRODS	S1P	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
		<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Sales (HK\$) by Therapeutic Area covering Jan-Mar 2017 (Prescription)

**EXAMPLE**

Sales (HK\$) by Therapeutic Area (Jan-Mar 2017) (Prescription)											
Sector		Government		Private		Trade		Macau		Total	
Therapeutic Area	Therapeutic Code	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016
ALL OTHER CYTOSTATICS	L1X	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
PURE VACCINES	J7A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-RHEUMATICS, NON-STEROIDAL	M1	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-EPILEPTICS	N3A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIMETABOLITES	L1B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
HIV ANTIVIRALS	J5C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIULCERANTS	A2B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIPSYCHOTICS	N5A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
IMMUNOSUPPRESSIVE AGENTS	L4A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
EMOLLIENTS, PROTECTIVES	D2A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
DPP-IV INHIBITOR ANTIDIABETICS	A10N	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
NON-NARCOTICS AND ANTI-PYRETICS	N2B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-DEPRESSANTS	N6A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
BONE CALCIUM REGULATORS	M5B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANGIOTENSIN-II ANTAGONISTS, PLAIN	C9C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
PLATELET AGGREGATION INHIBITORS	B1C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CALCIUM ANTAGONISTS, PLAIN	C8A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ERYTHROPOIETIN PRODUCTS	B3C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTICOAGULANTS NON-INJECTABLE	B1A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
COMBINATIONS OF VACCINES	J7B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
HORMONAL CONTRACEPTIVES, SYSTEMIC	G3A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CEPHALOSPORINS	J1D	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
OTHER DERMATOLOGICAL PREPARATIONS	D11A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
OCULAR ANTINEOVASC. PRODS	S1P	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
		<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Sales (HK\$) by Therapeutic Area covering Jan-Mar 2017 (Over the Counter)

EXAMPLE

<i>Sales (HK\$) by Therapeutic Area (Jan-Mar 2017) (Over the Counter)</i>											
<i>Sector</i>		<i>Government</i>		<i>Private</i>		<i>Trade</i>		<i>Macau</i>		<i>Total</i>	
<i>Therapeutic Area</i>	<i>Therapeutic Code</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>
ALL OTHER CYTOSTATICS	L1X	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
PURE VACCINES	J7A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-RHEUMATICS, NON-STEROIDAL	M1	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-EPILEPTICS	N3A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIMETABOLITES	L1B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
HIV ANTIVIRALS	J5C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIULCERANTS	A2B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTIPSYCHOTICS	N5A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
IMMUNOSUPPRESSIVE AGENTS	L4A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
EMOLLIENTS, PROTECTIVES	D2A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
DPP-IV INHIBITOR ANTIDIABETICS	A10N	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
NON-NARCOTICS AND ANTI-PYRETICS	N2B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTI-DEPRESSANTS	N6A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
BONE CALCIUM REGULATORS	M5B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANGIOTENSIN-II ANTAGONISTS, PLAIN	C9C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
PLATELET AGGREGATION INHIBITORS	B1C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CALCIUM ANTAGONISTS, PLAIN	C8A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ERYTHROPOIETIN PRODUCTS	B3C	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
ANTICOAGULANTS NON-INJECTABLE	B1A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
COMBINATIONS OF VACCINES	J7B	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
HORMONAL CONTRACEPTIVES, SYSTEMIC	G3A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CEPHALOSPORINS	J1D	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
OTHER DERMATOLOGICAL PREPARATIONS	D11A	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
OCULAR ANTINEOVASC. PRODS	S1P	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
		<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Sales (HK\$) by Company - Government Sector, Jan-Mar 2017

# EXAMPLE

### Sales (HK\$) by Company - Government Sector, Jan-Mar 2017

<i>Company</i>	<i>Sales (HK\$) in Jan-Mar 2017</i>	<i>Sales (HK\$) in Jan-Mar 2016</i>	<i>%Q1 2017/Q1 2016</i>
A Company	\$0	\$0	.00%
B Company	\$0	\$0	.00%
C Company	\$0	\$0	.00%
D Company	\$0	\$0	.00%
E Company	\$0	\$0	.00%
F Company	\$0	\$0	.00%
G Company	\$0	\$0	.00%
H Company	\$0	\$0	.00%
I Company	\$0	\$0	.00%
J Company	\$0	\$0	.00%
K Company	\$0	\$0	.00%
L Company	\$0	\$0	.00%
M Company	\$0	\$0	.00%
N Company	\$0	\$0	.00%
O Company	\$0	\$0	.00%
P Company	\$0	\$0	.00%
Q Company	\$0	\$0	.00%
R Company	\$0	\$0	.00%
S Company	\$0	\$0	.00%
T Company	\$0	\$0	.00%
U Company	\$0	\$0	.00%
V Company	\$0	\$0	.00%
W Company	\$0	\$0	.00%
Z Company	\$0	\$0	.00%
	<b>\$0</b>	<b>\$0</b>	<b>.00%</b>

## Product Sales (HK\$) by Company in Jan-Mar 2017

**EXAMPLE**

### Product Sales (HK\$) by Company (Jan-Mar 2017)

Company	Product	Therapeutic Area	Therapeutic Code	Sector Prescription/Over the Counter	Government		Private		Trade		Macau		Total	
					Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016
<i>Company A</i>														
A	Product A	ALKYLATING AGENTS	L1A	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product B	INTERFERONS	L3B	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product C	CORTICOIDS	R3D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product D	FIBRINOLYTICS	B1D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product E	FLUOROQUINOLONES	J1G	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product F	TRANQUILLISERS	N5C	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product G	STOMATOLOGICALS	A1A	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product H	ANTI-ARRHYTHMICS	C1B	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
A	Product I	CYTOSTATIC ANTIBIOTICS	L1D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
<b>Prescription Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Over The Counter Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Product Sales (HK\$) by Company in Jan-Mar 2017

**EXAMPLE**

Product Sales (HK\$) by Company (Jan-Mar 2017)														
Company	Product	Therapeutic Area	Therapeutic Code	Sector Prescription/Over the Counter	Government		Private		Trade		Macau		Total	
					Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016	Sales	%Q1 2017/Q1 2016
<i>Company B</i>														
B	Product A	ALKYLATING AGENTS	L1A	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product B	INTERFERONS	L3B	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product C	CORTICOIDS	R3D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product D	FIBRINOLYTICS	B1D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product E	FLUOROQUINOLONES	J1G	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product F	TRANQUILLISERS	N5C	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product G	STOMATOLOGICALS	A1A	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product H	ANTI-ARRHYTHMICS	C1B	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
B	Product I	CYTOSTATIC ANTIBIOTICS	L1D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
<b>Prescription Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Over The Counter Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>



## Product Sales (HK\$) by Therapeutic Area in Jan-Mar 2017

**EXAMPLE**

<i>Product Sales (HK\$) by Therapeutic Area (Jan-Mar 2017)</i>														
<i>Therapeutic Area</i>	<i>Therapeutic Code</i>	<i>Product</i>	<i>Company</i>	<i>Sector Prescription/Over the Counter</i>	<i>Government</i>		<i>Private</i>		<i>Trade</i>		<i>Macau</i>		<i>Total</i>	
					<i>Sales</i>	<i>%Q1</i>	<i>Sales</i>	<i>%Q1</i>	<i>Sales</i>	<i>%Q1</i>	<i>Sales</i>	<i>%Q1</i>	<i>Sales</i>	<i>%Q1</i>
					<i>2017/Q1</i>	<i>2016</i>	<i>2017/Q1</i>	<i>2016</i>	<i>2017/Q1</i>	<i>2016</i>	<i>2017/Q1</i>	<i>2016</i>	<i>2017/Q1</i>	<i>2016</i>
<i>X</i>														
ALKYLATING AGENTS	L1A	Product A	A	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
INTERFERONS	L3B	Product B	B	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CORTICOIDS	R3D	Product C	C	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
FIBRINOLYTICS	B1D	Product D	D	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
FLUROQUINOLONES	J1G	Product E	E	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
<b>Prescription Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Over The Counter</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Product Sales (HK\$) by Therapeutic Area in Jan-Mar 2017

**EXAMPLE**

				<i>Product Sales (HK\$) by Therapeutic Area (Jan-Mar 2017)</i>										
				<i>Sector</i>	<i>Government</i>		<i>Private</i>		<i>Trade</i>		<i>Macau</i>		<i>Total</i>	
<i>Therapeutic Area</i>	<i>Therapeutic Code</i>	<i>Product</i>	<i>Company</i>	<i>Prescription/Over the Counter</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>	<i>Sales</i>	<i>%Q1 2017/Q1 2016</i>
<i>Y</i>														
ALKYLATING AGENTS	L1A	Product F	F	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
INTERFERONS	L3B	Product G	G	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CORTICOIDS	R3D	Product H	H	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
FIBRINOLYTICS	B1D	Product I	I	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
FLUOROQUINOLONES	J1G	Product J	J	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
<b>Prescription Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Over The Counter</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

## Product Sales (HK\$) by Therapeutic Area in Jan-Mar 2017

**EXAMPLE**

Product Sales (HK\$) by Therapeutic Area (Jan-Mar 2017)														
Therapeutic Area	Therapeutic Code	Product	Company	Sector Prescription/Over the Counter	Government		Private		Trade		Macau		Total	
					Sales	%Q1	Sales	%Q1	Sales	%Q1	Sales	%Q1	Sales	%Q1
					2017/Q1	2016	2017/Q1	2016	2017/Q1	2016	2017/Q1	2016	2017/Q1	2016
<i>Z</i>														
ALKYLATING AGENTS	L1A	Product K	K	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
INTERFERONS	L3B	Product L	L	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
CORTICOIDS	R3D	Product M	M	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
FIBRINOLYTICS	B1D	Product N	N	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
FLUOROQUINOLONES	J1G	Product O	O	Prescription	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%	\$0	.00%
<b>Prescription Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Over The Counter Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>
<b>Total</b>					<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>	<b>\$0</b>	<b>.00%</b>

**Annex 7:**  
**[CONFIDENTIAL]**  
**HKAPI Sales Survey Report Q1 2015 (Jan-  
Mar)**

# **Annex 8: Annex to Form AD**

## ANNEX TO FORM AD

*In general, the information required by the Annex to Form AD need only be provided in respect of Applications which require a Competition Commission (“Commission”) decision that an agreement is excluded from the application of the First Conduct Rule by or as a result of section 1 (Agreements enhancing overall economic efficiency) of Schedule 1 to the Competition Ordinance (Cap 619) (“Ordinance”).<sup>31</sup>*

*In certain cases, the Commission may however request some or all of the information required under this Annex (or comparable information) in respect of Applications concerning other exclusions or exemptions if the information is necessary for the purposes of the Commission making the relevant decision under section 9 and/or section 24 of the Ordinance. This is a matter which may be discussed with the Commission during an Initial Consultation.*

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<sup>31</sup> *Where an Application is made in respect of an agreement or conduct falling within the concurrent jurisdiction of the Commission and the Communications Authority under section 159 of the Ordinance, references to the Commission in this Annex to Form AD include the Communications Authority as the context requires.*

## Relevant Market(s)<sup>32</sup>

**A.1** Define and describe the relevant product and geographic markets<sup>33</sup> that in the Applicant's opinion should form the basis of the analysis of the Application and any other product and geographic market definitions that are plausible alternatives.<sup>34</sup> This should include but is not limited to:

**A.1.1** a list of the relevant product(s)<sup>35</sup> offered by each of the parties mentioned in Part 2 of Form AD (including any relevant product(s) offered by each member of the corporate groups to which the parties belong);

**A.1.2** the reasons why the identified product and geographic markets should form the basis of the analysis of this Application.<sup>36</sup>

### I. Pharmaceutical products in Hong Kong

#### A. Relevant product market

- (1) The Applicant submits that the relevant product market for this Application is the market for pharmaceutical products, or more specifically, Western medicine in Hong Kong.
- (2) In Hong Kong, pharmaceutical products (Western medicine) are required to be registered under the Pharmacy and Poisons Ordinance (Cap.138). There are currently over 37,000 registered pharmaceutical products in Hong Kong.<sup>37</sup>
- (3) Western medicine in Hong Kong is principally divided into OTC and prescription (which can be generic or patented) drugs. OTC drugs are drugs that are generally purchased over-the-counter without a prescription, whereas prescription drugs are primarily prescribed by doctors. Patented drugs grant the inventor of the drug exclusive rights on the sale of the drug. Generic drugs without patent can have multiple manufacturers.
- (4) Western medicine can also be categorised by therapeutic area. Major therapeutic areas are traditionally cardiovascular, central nervous system, gastrointestinal, oncology, respiratory, anti-diabetics and anti-infective. The Applicant notes that overseas competition authorities, such as the European Commission, traditionally rely on the Anatomical Therapeutic Chemical ("ATC") division of medicines by therapeutic use devised by the European Pharmaceutical Marketing Research Association ("EphMRA") and

<sup>32</sup> The term "relevant market" has a technical meaning in competition analysis and the manner in which the Commission defines the market may differ from how businesses typically think of a market. For information on the Commission's general approach to market definition, Applicants should consult Part 2 of the Commission's Guideline on the Second Conduct Rule.

<sup>33</sup> The relevant market(s) for the purposes of the Application are established by a combination of the relevant product and geographic markets. For example, where the relevant product market is the market for product X and the relevant geographic market is area Y, market share, competitor information and other market-related information should be provided in respect of the market for product X in area Y. Applicants are referred generally to Part 2 of the Commission's Guideline on the Second Conduct Rule.

<sup>34</sup> For example, where a worldwide geographic market is proposed as the relevant geographic market, the Applicant may consider alternatives such as a regional geographic market, a geographic market comprising Hong Kong or a part of Hong Kong. Plausible alternative market definitions may be identified on the basis of previous Decisions of the Commission or case-law of the Competition Tribunal and other courts, by reference to industry reports or third party market studies, as well as internal documents of the Applicant.

<sup>35</sup> Unless the context indicates otherwise, a reference to a product or products in this Annex includes a service or services.

<sup>36</sup> The markets that should form the basis for analysis of an agreement generally include all markets in Hong Kong, including Hong Kong or a part of Hong Kong, where (a) two or more parties to the agreement are engaged in business activities in the same product market; (b) one or more parties to the agreement are engaged in business activities in a product market, which is upstream or downstream of a product market in which any other party is active; and (c) any other markets which might be affected by the agreement in question.

<sup>37</sup> See: <http://www.drugoffice.gov.hk/eps/psi/DrugList.xml>.

maintained by EphMRA and Intercontinental Medical Statistics.<sup>38</sup> The EphMRA ATC classifies pharmaceutical products hierarchically into 16 categories (A, B, C, D, etc.), each with up to four levels:

- (a) The first level of the code (“**ATC1**”) indicates the anatomical main product (i.e. the part of the human body that the medicine intends to address). This is the most general level of classification.
  - (b) The second level of the code (“**ATC2**”) indicates the therapeutic main group (i.e. the main disease groups that the medicine intends to address).
  - (c) The third level of the code (“**ATC3**”) indicates the therapeutic and pharmacological subgroup (i.e. the different drug actions that will address the disease in question).
  - (d) The fourth level of code (“**ATC4**”) indicates the chemical, pharmacological and therapeutic subgroup. This is the most detailed level of classification.
- (5) As a starting point, overseas competition authorities such as the European Commission analyse competition on the basis of the ATC3 level, which allows pharmaceutical products to be grouped in terms of their therapeutic indications, i.e. their intended use. In cases where the ATC3 level does not appear to be most appropriate for purposes of market definition, competition authorities, such as the European Commission, may consider the ATC4 level as a possible alternative for the purposes of market definition to address competition issues at the molecule level. The European Commission has also explored galenic form as a potential narrower basis for market definition within the ATC3/ATC4 levels.<sup>39</sup> Galenic classification refers to the dosage, pharmaceutical form and route of administration.
  - (6) Although pharmaceutical products sold in Hong Kong are generally classified under the World Health Organisation’s ATC Classification system (organised into five levels) rather than EphMRA’s ATC system, the WHO’s system is an extension and modification of EphMRA’s system and has undergone a harmonisation process with EphMRA’s system since 1991.<sup>40</sup> Notwithstanding the differences between the WHO’s system and EphMRA’s system, the products or product nature of pharmaceutical products sold in European markets and in Hong Kong are essentially the same and the above principles are generally applicable to Hong Kong and therefore are applied in this Application.
  - (7) The Applicant submits that the ATC3 level is the appropriate classification for purposes of this Application. The proposed Market Sales Survey would aggregate data at the ATC3 level. Specifically, 186 product categories at the ATC3 level would be the subject of the Market Sales Survey, as set out in the following:

#### **Annex 9**            ATC3 categories under the Market Sales Survey

As the Market Sales Survey does not specify data at ATC4 level, ATC3 level should be most appropriate for purposes of market definition in this Application and be sufficient for purposes of assessing any potential concerns arising from the Market Sales Survey.

- (8) Notwithstanding the above, the Applicant submits that, for the purpose of this application the exact delineation of the relevant product market(s) for the provision of pharmaceutical products can be left open, because the competitive assessment of the Market Sales Survey remains the same under any alternative market definition discussed in this Application.

<sup>38</sup> See, for example, Case [COMP/M.6705 – Procter & Gamble/Teva Pharmaceuticals OTC II](#), European Commission decision of 9 September 2012, and cases cited therein.

<sup>39</sup> See, for example, Case [COMP/M.5865 – Teva/Ratiopharm](#), European Commission decision of 3 August 2010.

<sup>40</sup> See: [https://www.whocc.no/atc\\_ddd\\_methodology/the\\_ephmra\\_classification\\_system/](https://www.whocc.no/atc_ddd_methodology/the_ephmra_classification_system/). See also European Pharmaceutical Marketing Research Association, *Comparison of the WHO ATC Classification and EphMRA / PBIRG Anatomical Classification* (April 2016), available at: <https://www.ephmra.org/media/1082/who-atc-2016-comparison.pdf>.



**B. Relevant geographic market**

- (9) The Applicant submits that the relevant geographic market is Hong Kong. The Applicant refers to decisions of the European Commission that consistently considered that the markets for pharmaceutical products are national in scope.<sup>41</sup> This conclusion had been reached because of (i) the varying regulatory controls for pharmaceutical products; (ii) perceived differences in price setting and purchasing patterns; (iii) differences in national clinical guidelines, medical views and patient preferences; (iv) differences in brand, pack size and distribution systems; and (v) because competition between pharmaceutical companies generally takes place at the national level.<sup>42</sup> The Applicant considers that this approach is suitable for the purposes of this Application.
- (10) As indicated in paragraph (23) of the Form AD, details relating to Macau are not detailed any further in this Application. The Applicant therefore respectfully submits that, for the purpose of this Application, the relevant geographic market for pharmaceutical products is Hong Kong.

**II. Market research services in Hong Kong (plausible alternative market)****A. Plausible alternative product market**

- (11) The market for market research services (“**MRS**”) for pharmaceutical products in Hong Kong may be a plausible alternative product market for purposes of this Application.
- (12) MRS encompasses a wide category of products and services aimed at measuring and understanding customer attitudes, sales and purchasing behaviour, market trends and industry dynamics. As explained in Section 3.2 of the Application, the deliverable product in question, i.e. the Sales Survey Report, is aggregated, retrospective, quarterly sales data of pharmaceutical companies in Hong Kong. The provision of the Sales Survey Report through the Market Sales Survey can therefore be considered as MRS.
- (13) The Applicant notes that decisional practice of the European Commission has previously considered that MRS in the healthcare sector (“**Healthcare MRS**”) can be considered to constitute a separate market to the provision of MRS in general. Although there may be further segmentations within Healthcare MRS (e.g. Healthcare MRS supplied for prescription drugs, or Healthcare MRS supplied for OTC drugs),<sup>43</sup> the European Commission has on multiple occasions left the precise product market definition open.<sup>44</sup> The Applicant considers that the general principles in such decisions are generally applicable to the product market definition for the Market Sales Survey.
- (14) From a demand-side perspective, there are generally three kinds of demand for Healthcare MRS in Hong Kong:
- (a) **Pharmaceutical companies.** Healthcare MRS data will primarily be useful to pharmaceutical companies operating or planning to operate in Hong Kong. Market data from Healthcare MRS will be useful in planning product strategies, determining which drugs to develop and launch,

<sup>41</sup> Case [COMP/M.6705](#) – *Procter & Gamble/Teva Pharmaceuticals OTC II*, European Commission decision of 9 September 2012; Case [COMP/M.5295](#) – *Teva/Barr*, European Commission decision of 19 December 2008; Case [COMP/M.5479](#) – *Teva/Lonza*, European Commission decision of 14 May 2009; Case [COMP/M.5530](#) – *Glaxo Smith Kline/Stiefel Laboratories*, European Commission decision of 17 July 2009 and Case [COMP/M.6162](#) – *Pfizer/Ferrosan Consumer Healthcare Business*, European Commission decision of 9 June 2011.

<sup>42</sup> Case [COMP/M.6280](#) – *P&G/Teva OTC Business*, European Commission decision of 30 September 2011.

<sup>43</sup> Case [COMP/M.5736](#) – *TPG/IMS Health*, European Commission decision of 2 February 2010, paragraph 12.

<sup>44</sup> Case [COMP/M.5736](#) – *TPG/IMS Health*, European Commission decision of 2 February 2010, paragraphs 12-13; Case [COMP/M.2291](#) – *VNU/ACNielsen*, European Commission decision of 12 February 2001, paragraphs 16-19; Case [COMP/D3/38.044](#) – *NDC/IMS Health*, European Commission decision of 3 July 2001, paragraphs 47-51; Case [COMP/M.5736](#) – *TPG/IMS Health*, European Commission decision of 2 February 2010, paragraphs 12-13; Case [COMP/M.7337](#) – *IMS Health/CEGEDIM Business*, European Commission decision of 19 December 2014, paragraphs 75-80.

positioning products in the market, forecasting demand and benchmarking company performance against other pharmaceutical companies.

Pharmaceutical companies generally seek market data for such purposes from all internal and external sources that are available, including those from free or paid sources. Due to the inherent lack of reliability of market data sourced from external sources, pharmaceutical companies may seek to obtain the same type of data from multiple sources to verify the accuracy of the data, insofar as such alternative sources of data are available and their resources allow them to do so.

Also, one single data source may not comprehensively provide all the detailed aspects of market data required by the pharmaceutical company (e.g. some data sources may not provide volume data, up-to-date data, or data on some categories of pharmaceutical products).

Hence, pharmaceutical companies generally treat all providers of Healthcare MRS data as complementary, with preferences on data coverage (e.g. sectors and therapeutic areas), data history, data granularity, data reliability and affordability of the data in question.

- (b) **Government or public bodies.** Healthcare MRS data can be sought by government or public bodies looking for market data on the pharmaceutical market in Hong Kong and/or Macau in connection with formulating public policy or other programmes that may benefit the general public. For instance, Invest Hong Kong, the department of the Hong Kong SAR Government responsible for foreign direct investment, actively seeks market data in the pharmaceutical market in Hong Kong in support of developing strategies and providing practical support in encouraging foreign biotechnology and pharmaceutical companies to set up operations in Hong Kong.<sup>45</sup>

In 2017, the Department of Health relied on wholesale supply data of antibiotics in Hong Kong for its study on antibiotics usage in the city in 2014 to 2016.<sup>46</sup> The Applicant understands that the Hospital Authority also uses Healthcare MRS data in Hong Kong for reference purposes in connection with planning and budgeting.

- (c) **Academic institutions or medical professionals.** Healthcare MRS data can also be used for academic, research and development purposes in the context of research on the biotechnology and pharmaceutical industry in Hong Kong. For instance, academics can use Healthcare MRS data in Hong Kong to compare against spending in other countries in certain disease areas. Healthcare MRS data can also be used to identify the availability of newer therapeutic options in Hong Kong.

- (15) From a supply-side perspective, raw sales data for Healthcare MRS can be sourced from pharmaceutical companies themselves or be estimated by market research agencies. Market research agencies generally obtain such data through market research.<sup>47</sup> Given that such market research is mostly fieldwork that can be carried out by market research agencies that have experience of conducting market research in other fields, there is a certain degree of supply-side substitutability in the sense that general market research agencies that can provide MRS in other categories would also have the means to provide Healthcare MRS.
- (16) Notwithstanding the above, the Applicant considers the exact delineation of the plausible alternative market provision of Healthcare MRS should be left open for the purpose of this Application.

<sup>45</sup> See: <http://www.investhk.gov.hk/business-opportunities/biomedical.html>.

<sup>46</sup> See: <https://www.chp.gov.hk/en/static/100290.html>.

<sup>47</sup> For example, see: <http://syndicatedanalyticslibrary.imshealth.com/files/MarketPrognosisSourcesandMethods.pdf>.

**B. Plausible alternative geographic market**

- (17) Healthcare MRS in Hong Kong may be a plausible alternative geographic market for the purpose of this Application.
- (18) The Applicant refers to decisions of the European Commission which has considered the relevant geographic market for sales tracking data.<sup>48</sup>
- (19) The data collected in the Market Sales Survey and data distributed in the Sales Survey Report only concerns Hong Kong (and Macau<sup>49</sup>). While there may be interested parties from overseas who may be interested in purchasing the Sales Survey Report from the Applicant, the purpose for which the Sales Survey Report is purchased for would invariably relate to Hong Kong.
- (20) In addition, data in Healthcare MRS involve fundamental aspects of the pharmaceutical products that differ from country to country, including the name of the drug, dosages and formulations available, the product code, the packaging, the therapeutic category and the category of reimbursement.<sup>50</sup>
- (21) Notwithstanding the above, the Application considers the exact geographic of the plausible alternative market for Healthcare MRS should be left open for the purpose of this Application.

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<sup>48</sup> Case [COMP/D3/38.044](#) – *NDC/IMS Health*, European Commission decision of 3 July 2001, paragraphs 47-51; Case [COMP/M.5736](#) – *TPG/IMS Health*, European Commission decision of 2 February 2010, paragraphs 12-13; Case [COMP/M.7337](#) – *IMS Health/CEGEDIM Business*, European Commission decision of 19 December 2014, paragraphs 81-83.

<sup>49</sup> As mentioned in paragraph (24) of the Form AD to this Application, details relating to Macau are not detailed any further in this Application.

<sup>50</sup> Case [COMP/D3/38.044](#) – *NDC/IMS Health*, European Commission decision of 3 July 2001, paragraphs 52-56.

## Competitive Conditions in the Relevant Market(s)

- A.2** *With respect to each of the relevant market(s) (including plausible alternative markets) identified in paragraph 2.1 above, describe the competitive position of the parties to the agreement in question and of their main competitors. This should include but is not limited to:*
- A.2.1.** *the proportion of the turnover figures of the relevant parties (as provided in Part 2 of the Form AD) that is attributable to the identified product market(s);*
- A.2.2.** *the Applicant's best estimates of the market shares (in terms of value and volume) of each of the relevant parties and their main competitors in the relevant market(s), and the level of concentration in those market(s), in each of the three years prior to the Application;<sup>51</sup>*
- A.2.3.** *the contact details of the main competitors identified in paragraph A.2.2 above, including in each case the competitor's name, address, telephone and fax numbers, email address, where possible the contact details of an appropriate contact person and the competitors' website address (if any);*
- A.2.4.** *the identity and contact details of the five main customers<sup>52</sup> of each relevant party in respect of the relevant products in the year prior to the Application, including in each case the customer's name, address, telephone and fax numbers and an email address for the named contact and the customer's website address (if any);*
- A.2.5.** *the identity and contact details of the five main suppliers<sup>53</sup> (of raw materials or other inputs used in the production of the relevant products) of each relevant party in the year prior to the Application, including in each case the supplier's name, address, telephone and fax numbers, an email address for the relevant named contact, and the supplier's website address (if any).*

### **I. Pharmaceutical products in Hong Kong**

- (22) The Applicant is not active in the market for pharmaceutical products in Hong Kong. Hence, it does not have any customers or suppliers of pharmaceutical products in Hong Kong. The Applicant considers that the exact delineation of the relevant market should be left open. Nevertheless, the Applicant's understanding of the pharmaceutical industry in Hong Kong is set out below. Further information about the Hong Kong pharmaceutical market can be found in **Annex 12**.
- (23) In general, the drug supply chain in Hong Kong consists of manufacturers, wholesalers, importer/exporters and retailers.<sup>54</sup> They are all subject to licensing control under the Pharmacy and Poisons Ordinance (Cap.138). Under the Pharmacy and Poisons Ordinance, importers/exporters and wholesalers can only resell drugs to retailers, hospitals, clinics and other authorised persons, while retailers can sell drugs direct to members of the public. As the domestic industry consists of a small number of companies producing primarily generic pharmaceuticals predominantly for the Hong Kong domestic market,<sup>55</sup> imports make up the bulk of the overall pharmaceutical market.

#### **A. Main competitors in the Market**

- (24) To the best of the Applicant's knowledge, the top five companies active in the market for pharmaceutical products in Hong Kong based on IMS data are set out below. Contact details are provided at **Annex 2**.

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<sup>51</sup> *Applicants should indicate the basis and sources for the calculations and provide supporting documents (e.g. third party studies or market reports) where available to confirm these calculations.*

<sup>52</sup> *Provide information on the top five customers by sales and, if different, the top five customers by volume.*

<sup>53</sup> *Provide information on the top five suppliers by sales and, if different, the top five suppliers by volume.*

<sup>54</sup> See: [https://www.drugoffice.gov.hk/eps/do/en/pharmaceutical\\_trade/other\\_useful\\_information/drug\\_regulatory\\_system.html](https://www.drugoffice.gov.hk/eps/do/en/pharmaceutical_trade/other_useful_information/drug_regulatory_system.html).

<sup>55</sup> Currently there are only 23 Licensed Pharmaceutical Manufacturers in Hong Kong.

	Name	HKD (million)	Market share (%)
1	Merck Sharp & Dohme	[CONFIDENTIAL – turnover and market share estimates of the top five companies]	
2	Pfizer Group		
3	Novartis Group		
4	Roche Group		
5	GlaxoSmithKline		

Source: QuintilesIMS<sup>56</sup>

- (25) As indicated in paragraph (41)(a) of the Form AD, the Applicant understands that the majority of pharmaceutical products in Hong Kong are imported from overseas (especially prescription drugs), and most players in the pharmaceutical industry in Hong Kong are multinational companies. Hence, most pharmaceutical products sold in Hong Kong are not manufactured in Hong Kong, but in other jurisdictions with advanced healthcare technology, for instance, in the US, Europe and Japan. As the Market Sales Survey does not concern the production of pharmaceutical products, the Applicant submits that, for purposes of considering this Application, it is not necessary to consider information regarding the suppliers of raw materials or other inputs used in the production of the pharmaceutical products of the above main competitors.
- (26) The Applicant is not in a position to provide market share information in the market for pharmaceutical products in Hong Kong because the Applicant has not been active in gathering market data since 2015. Nevertheless, in order to provide the Commission an indication of the identity and sales figures of the pharmaceutical companies in Hong Kong, the Applicant has provided the Commission with a confidential sample of the sales survey report that was conducted by the Applicant in the first quarter of 2015, together with a sales data breakdown for ATC3 level in 2015 (January to November), in **Annex 6**.
- (27) A list of the full members of the Applicant who purchased the Applicant's past survey in 2015 is also provided in **Annex 4**. In addition, a third-party market survey about the general Hong Kong pharmaceutical market in 2015, which includes the total sales of the top 20 pharmaceutical companies in Hong Kong, is set out in the following:

**Annex 10** [CONFIDENTIAL] Third party data source

#### B. Main customers in the Market

- (28) As indicated in paragraph (24) above, importers/exporters and wholesalers can only resell drugs to retailers, hospitals, clinics and other authorised persons, while retailers can sell drugs directly to members of the public. Customers of pharmaceutical products in Hong Kong, as generally recognised by market players in the industry, are primarily comprised of three sectors:
- (a) **The public healthcare sector.** The public sector in Hong Kong is comprised of the Hospital Authority and the Department of Health. The Hospital Authority manages all 42 public hospitals and 48 specialist out-patient clinics and 73 general out-patient clinics in Hong Kong<sup>57</sup> and is the single largest purchaser of pharmaceutical products in Hong Kong. The Department of Health provides a wide range of promotional, preventative, curative and rehabilitative services. The primary mode of distribution of pharmaceutical products in the public sector is through tenders.<sup>58</sup>

<sup>56</sup> See **Annex 12** [CONFIDENTIAL] Third party data source.

<sup>57</sup> See: [https://www.ha.org.hk/visitor/ha\\_visitor\\_index.asp?Content\\_ID=10036&Lang=ENG&Ver=HTML](https://www.ha.org.hk/visitor/ha_visitor_index.asp?Content_ID=10036&Lang=ENG&Ver=HTML).

<sup>58</sup> See **Annex 12** [CONFIDENTIAL] Third party data source.

- (b) **The private healthcare sector.** The private sector in Hong Kong is primarily comprised of private hospitals and doctors in private practice. The primary mode of distribution of pharmaceutical products in the private sector is through individual purchase orders from healthcare service providers, which are typically individually sourced from distributors for the pharmaceutical companies.
- (c) **The trade sector.** This comprises of registered pharmacies, drug stores and other retailers in Hong Kong. This sector focuses on selling OTC drugs and dispensing prescription drugs. There are over 600 authorised sellers of “poisons” specified in the Poisons List under the Tenth Schedule of Pharmacy and Poisons Regulation (Cap 138A) and thousands of medicine shops in Hong Kong.
- (29) In order to provide the Commission an indication of the identity and proportion of sales to customers of pharmaceutical companies in Hong Kong, the identity and contact details of the top five customers the Applicant’s full members are provided in the following:

**Annex 11** [CONFIDENTIAL] Top customers of the Applicant’s full members

## II. Market research services in Hong Kong (plausible alternative market)

### A. Main competitor(s) in the market

- (30) The Applicant believes that, since the Applicant has ceased its operation of the Market Sales Survey in 2015, the market for Healthcare MRS in Hong Kong has been almost exclusively supplied by a single provider of MRS, namely IQVIA, which operates in Hong Kong through IMS Chinametrik Ltd (“IMS”). There may be independent consultants or market research agencies that may provide market research on the pharmaceutical market in Hong Kong on an ad hoc basis. However, the Applicant is not in a position to ascertain which particular consultants or market research agencies do actually provide Healthcare MRS in Hong Kong on a regular basis.
- (31) The Applicant understands that, for those pharmaceutical companies that do seek market data from external sources, the overwhelming majority of such companies rely on IMS for the provision of Healthcare MRS data in Hong Kong. The key reason for this is because they are now the only known source that provides such data on a regular basis, since the Applicant has ceased its operation of the its survey in 2015. The Applicant is not aware of any other competitor of IMS that provides Healthcare MRS in Hong Kong on a regular basis.
- (32) The Applicant understands that many pharmaceutical companies would prefer obtaining both data from IMS and the Applicant, even if the Applicant resumes operation of the Market Sales Survey.<sup>59</sup> The reason for this is because the Healthcare MRS data from IMS and the Applicant are generally complementary, and each may fill in information gaps which the other may not provide. For instance, the Market Sales Survey may cover certain sectors or therapeutic areas which are not covered by IMS. On the other hand, the Market Sales Survey would not provide comparable sales volume figures unlike IMS. Moreover, the Applicant considers that the Market Sales Survey proposed by the Applicant will be more accurate, because the Applicant’s data will be sourced from actual sales data of pharmaceutical companies, whereas IMS data may not be from such sources.

<sup>59</sup> This has also been the case in the UK, where prescription data from the UK Government is used in parallel with IMS data. See, for example, Final Decision on the Review of undertakings given by IMS Health Inc following its acquisition of Pharmaceutical Marketing Services Inc in 1999, UK Competition Commission decision of 26 March 2014, paragraphs 1.14, 5.39-5.42, 7.1(b).

- (33) Until the Applicant suspended the Market Sales Survey in 2015, the Applicant understands that many pharmaceutical companies relied on data from both the Applicant and IMS. However, since the suspension of the Market Sales Survey, IMS has become the only provider of Healthcare MRS in Hong Kong.

**B. Main customers and suppliers of raw input in the Market**

- (34) The key customers of Healthcare MRS are pharmaceutical companies in Hong Kong.
- (35) The customers of Healthcare MRS are also the providers of the key input for the product, i.e. raw sales data of pharmaceutical companies in Hong Kong. Insofar as the Applicant is concerned, most of the customers and providers of data for the Market Sales Survey are its members, but the Market Sales Survey will also be available to purchase or submit data to by non-members, such as non-member pharmaceutical companies, Government or public bodies, academic institutions or medical professionals. The contact details of the Applicant's full members are provided in **Annex 2**.
- (36) As the Applicant had suspended since 2015 its previous sales survey that it carried out before the full commencement of the Ordinance, the Applicant does not have a list of current customers for the Market Sales Survey. As explained in paragraph (17) of the Application, the Applicant is not yet in a position to ascertain which of the Applicant's members would participate in the Market Sales Survey unless and until the Commission makes a decision in favour of this application. Nevertheless, for purposes of assisting the Commission in this Application, and without prejudice to the decision of the Applicant's members on whether to participate in the Market Sales Survey after the Commission makes a decision in respect of this application, the identity of the Applicant's full members who purchased the Applicant's past survey in 2015 are provided in **Annex 4**.

**A.3 Provide a brief explanation of the structure of demand in each of the relevant market(s) (including plausible alternative markets) identified in paragraph 1.1 above. This should include, for example, a description of:**

**A.3.1. the way in which customers purchase the products in question;**

**A.3.2. the importance of customer preferences (in terms of price, brand loyalty, product differentiation, pre- and after-sales services, and the provision of a full range of products);**

**A.3.3. the different categories of customers in the market;**

**A.3.4. the extent to which customers are willing and able to switch between suppliers.**

## **I. Pharmaceutical products in Hong Kong**

(37) The Applicant is a provider of services to the pharmaceutical industry in Hong Kong. The Applicant's general understanding of the pharmaceutical industry in Hong Kong is set out below.

(38) As explained in paragraph (28) above, customers of pharmaceutical products can be divided into the public, private and trade sectors. The public healthcare system is funded by the government in Hong Kong. Different categories of customers have different models when purchasing pharmaceutical products. The public sector mostly purchases pharmaceutical products through tenders, whereas the private and trade sectors mostly purchase through individual purchase orders.

(39) An overall key characteristic of the market for pharmaceutical products that sets it apart from other markets is this that decisions to purchase pharmaceutical products (especially prescription only medicines) are often not made by the actual consumer (the patient), but rather by the doctor or healthcare professional that prescribes the pharmaceutical product to the patient. This means that demand is affected by the professional opinions of physicians and healthcare professionals. As such, a large part of the marketing efforts of pharmaceutical companies focus on educating physicians and healthcare professionals about the clinical data and clinical trials supporting the benefits of their products, especially when launching a new product into the market.

### **A. The public sector**

(40) The Applicant understands that the Hospital Authority procurement of pharmaceutical products is handled centrally and is essentially tender-based. Around 1,000 tenders are organised by the Hospital Authority each year. The Hospital Authority purchases pharmaceutical products by three different systems, depending on the value of the transaction:

(a) Tenders for bulk-supply contracts with value above HKD 1.5 million per year. This represents around 80% of the Hospital Authority's purchases. The duration of these tenders was extended from one year to three years in 2015, which now ties manufacturers into long-term contracts with fixed prices and less opportunity to change prices.

(b) Standing offer agreement for purchases worth over HKD 100,000 per year. Only accredited suppliers from an approved list are invited to submit quotations.

(c) Direct purchases of drugs for which order values do not exceed HKD1.5 million, if the drug items are not covered by bulk-supply contracts or standing offer agreements. Hospitals and clinics make orders based on a central list of approved suppliers maintained by Hospital Authority's headquarters and must follow government procurement procedures.<sup>60</sup>

<sup>60</sup> See **Annex 12** [CONFIDENTIAL] Third party data source.



- (41) Despite the absence of formal price control system for pharmaceutical products in Hong Kong, the tender-based procurement system in the public sector is understood to indirectly constrain prices, including for multi-source products (i.e. generic products).<sup>61</sup>

**B. The private and trade sectors**

- (42) The Applicant understands that private and trade sectors are generally less constrained in their procurement behaviour than the public sector. Apart from some private hospitals which may follow some general principles in the public procurement system, purchases of pharmaceutical products in the private and trade sectors are more commonly made through individual purchase orders, rather than through formal tenders.
- (43) Customers in the private and trade sectors purchase pharmaceutical products either directly from the pharmaceutical companies or indirectly from agents/distributors of the pharmaceutical companies.
- (44) Private hospitals generally have a set of principles which guide the selection and procurement of drugs. Doctors in private practice are subject to the code of professional conduct adopted by the Hong Kong Medical Council. Under that code, sole practitioners are solely responsible for the procurement of drugs, whereas doctors in joint practices may rely on the joint practice to handle purchases of pharmaceutical products. Registered pharmacies, drug stores and other retailers in Hong Kong are understood to have their own internal guidelines on procuring pharmaceutical products for resale. The private and trade sectors therefore form a heterogeneous group of customers.<sup>62</sup>

**II. Market research services in Hong Kong (plausible alternative market)**

- (45) As indicated in paragraph (14) above, there are essentially three broad categories of customers of Healthcare MRS, namely: (i) pharmaceutical companies; (ii) government or public bodies; and (iii) academic institutions or medical professionals.

**A. Pharmaceutical companies**

- (46) As explained in paragraph (14)(a) above, pharmaceutical companies generally use data from Healthcare MRS to plan product strategies, to determine which drugs to research and develop, to forecast trends in demand, to position products in the market and benchmark company performance against other pharmaceutical companies. As such decisions are generally made a number of times per year, pharmaceutical companies generally need up-to-date data for such purposes. Hence, some pharmaceutical companies prefer to subscribe to Healthcare MRS on a regular basis, while other companies may only purchase data from Healthcare MRS on an ad hoc basis.
- (47) As subscriptions to Healthcare MRS offered by IMS are charged on ATC basis, pharmaceutical companies generally limit their subscriptions to ATCs that they are interested in, such that their subscriptions may vary depending on the portfolio of pharmaceutical products they currently sell or intend to sell. Pharmaceutical companies may source Healthcare MRS data in Hong Kong through local subscriptions with IMS. Some larger pharmaceutical companies may subscribe to Healthcare MRS data through their global headquarters and provide relevant data to the Hong Kong office for further use.

**B. Government or public bodies**

- (48) Government or public bodies may use data from Healthcare MRS in the context of the pharmaceutical industry in Hong Kong for purposes of formulating public policy or other programmes that may benefit the general public. The purchasing behaviour of customers from the public sector are generally made on an

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<sup>61</sup> See **Annex 12** [CONFIDENTIAL] Third party data source.

<sup>62</sup> See **Annex 12** [CONFIDENTIAL] Third party data source.

ad hoc basis, depending on when the need for such market information arises. Given the ad hoc nature of such purposes, such customers are generally willing to switch between Healthcare MRS providers. In some cases, Government or public bodies may even conduct their own market research.<sup>63</sup>

**C. Academic institutions or medical professionals**

- (49) Academic institutions or medical professionals may use data from Healthcare MRS in the context of the pharmaceutical industry in Hong Kong for academic, research and development purposes. The purchasing behaviour of customers from academia or medical professionals are generally made on an ad hoc basis, depending on when the need for such market information arises. Given the ad hoc nature of such purposes, such customers are generally willing to switch between Healthcare MRS providers, though they may be more limited in terms of funding to do so.

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<sup>63</sup> For instance, in 2017, the Department of Health conducted its own survey of wholesale supply data of antibiotics in Hong Kong for its study on antibiotics usage in the city in 2014 to 2016. See: <https://www.chp.gov.hk/en/static/100290.html>. It should be noted that IMS is understood to have been the sole supplier of Healthcare MRS in Hong Kong at this time, as the Applicant had ceased its Market Sales Survey when the Department of Health conducted its survey.

**A.4** *Provide a brief explanation of the structure of supply in each of the relevant market(s) (including plausible alternative markets) identified in paragraph 1.1 above. This should include, for example, a description of:*

**A.4.1.** *the manner in which the products in question are produced, priced and sold;*

**A.4.2.** *the nature and extent of vertical integration in the market;*

**A.4.3.** *the distribution systems prevailing in the market;*

**A.4.4.** *the service networks (for example repair and maintenance) prevailing in the market (if any).*

## **I. Pharmaceutical products in Hong Kong**

(50) As indicated in paragraph (22) above, the Applicant does not manufacture or sell pharmaceutical products and therefore has only limited information regarding the suppliers of raw materials or other inputs used in the production of the pharmaceutical products of the main competitors.

(51) As explained in paragraph (23) above, the drug supply chain consists of different players that are all subject to licensing control under the Pharmacy and Poisons Ordinance, namely:

(a) manufacturers, which must obtain a licence before commencing operations and comply with the Hong Kong Good Manufacturing Practices to ensure that pharmaceutical products are consistently produced and controlled to the quality standards appropriate to their intended use;

(b) wholesalers and importers/exporters which require a Wholesaler Dealer Licence and must set up a system enabling the effective recall of medicines from the market when the products are found to be dangerous or injurious to health; and

(c) retailers, which can be divided between Listed Seller of Poisons, commonly known as “medicine companies” and Authorities Seller of Poisons, commonly known as “pharmacies”.

(52) To the best of the Applicant’s knowledge, pharmaceutical companies who import pharmaceutical products into Hong Kong generally rely on distributors to distribute their products in Hong Kong, although multinational companies operating in Hong Kong generally have established offices in Hong Kong. Hence, imported drugs are usually either registered by the licensed wholesale dealer or a subsidiary body of the overseas manufacturer. Pharmaceutical distributors in Hong Kong, such as Zuellig, DKSH and LF Asia, generally have warehouses and delivery teams to provide specialised logistics services for manufacturers to distribute their products to end customers, such as hospitals, pharmacies and clinics.

(53) Under the Pharmacy and Poisons Ordinance, importers/exporters and wholesalers can only resell drugs to retailers, hospitals, clinics and other authorized persons. By contrast, retailers can sell drugs directly to members of the public.

## **II. Market research services in Hong Kong (plausible alternative market)**

(54) The manner in which the Sales Survey Report will be generated under the Market Sales Survey are detailed in paragraph (24) of the Form AD to this Application. The Applicant understands that similar Healthcare MRS products may be produced in a similar manner, with possible variations as to the source data for the product (data may be entirely or partially sourced from the pharmaceutical companies themselves (as the Market Sales Survey would do) or from market research or educated estimates carried out by third parties (as IMS does)), the nature of the data provided (e.g. sales by value, sales by volume), time period covered (e.g. monthly, quarterly, annually), coverage of data, the degree of aggregation and organisation type.

- (55) The Applicant's plans as to pricing the Sales Survey Report is set out in paragraph (28) of the Form AD to this Application.<sup>64</sup>
- (56) The Applicant plans to directly sell the Sales Survey Report to customers, while restricting the further distribution or sales of the Sales Survey Report to third parties. The Applicant will be responsible for carrying out the data collection, data processing and distribution of the Market Sales Survey to customers electronically.

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<sup>64</sup> The Applicant understands that IMS does not charge through a price list [CONFIDENTIAL – information in relation to IMS].

**A.5 Describe the potential competition with respect to each of the relevant market(s) (including plausible alternative markets) identified in paragraph 1.1 above by:**

**A.5.1. setting out the Applicant's view on its potential competitors in the market;**

**A.5.2. specifying any significant barriers to entry to or expansion in the market; and**

**A.5.3. providing details of instances of market entry, market exit and market consolidation (i.e. merger or acquisition) in the five years prior to the Application.**

**I. Pharmaceutical products in Hong Kong**

- (57) In the Applicant's view, competition is fierce in the pharmaceutical industry in Hong Kong.
- (58) Participants in the pharmaceutical industry in Hong Kong generally face the same barriers to entry or expansion in other parts of the world. However, the Hong Kong Government is especially known to be welcoming towards multinational foreign biotechnology and pharmaceutical companies in setting up operations in Hong Kong.<sup>65</sup> Hence, the Applicant does not consider there to be particularly high barriers to entry or expansion in the market for pharmaceutical products in Hong Kong.
- (59) Given that most pharmaceutical products in Hong Kong are imported, mergers and acquisitions in the pharmaceutical industry generally take place at a global level. To the best of the Applicant's knowledge, the most significant instances of market entry, market exit and market consolidation that is relevant to the Hong Kong market in the five years prior to this Application are as follows:

Year	Purchaser	Target/Merging Party
2018	Procter & Gamble	Merck Consumer Health Business
2018	Teva	PGT OTC Assets
2018	Takeda Pharmaceutical	Shire
2018	GlaxoSmithKline	GlaxoSmithKline–Novartis Consumer Healthcare
2018	Sanofi	Bioverativ
2017	Johnson & Johnson	Actelion
2017	Gilead Sciences	Kite Pharma
2016	Shire	Baxalta
2016	Mylan	Meda
2016	Sanofi	Boehringer Ingelheim Consumer Healthcare Business
2015	Actavis	Allergan Inc
2015	Teva Pharmaceutical Industries	Actavis
2015	AbbVie	Pharmacyclics
2015	Valeant	Salix Pharmaceuticals
2015	Mylan	Perrigo
2015	Pfizer	Hospira

<sup>65</sup> See: <http://www.investhk.gov.hk/business-opportunities/biomedical.html>.

Year	Purchaser	Target/Merging Party
2015	Mylan	Abbott EPD-DM
2014	AbbVie	Shire
2014	Actavis	Forest Laboratories
2014	Merck Group	Sigma-Aldrich
2014	Novartis	GlaxoSmithKline Oncology
2014	Bayer	Merck & Co Consumer Health

- (60) To the best of the Applicant's knowledge, apart from the acquisition of Actelion by Johnson & Johnson in 2017, there are no other significant instances of market entry, market exit and market consolidation that is relevant to the Hong Kong market in the five years prior to this Application.

## II. Market research services in Hong Kong (plausible alternative market)

- (61) The Applicant is not aware of any significant barriers to entry to or expansion in the market. The Applicant considers such barriers to be generally low. Sourcing the relevant raw sales data for processing is the key input to market players in this space. Such data may be entirely or partially sourced from the pharmaceutical companies themselves (as the Market Sales Survey would do) or from market research or educated estimates carried out by third parties (as IMS does). Given that the latter can be carried out by third party market researchers with relative ease, they are capable of offering comparable Healthcare MRS products on an ad hoc basis upon request from a potential customer. Customers are generally receptive to alternative providers of Healthcare MRS, provided that such providers can supply products that meet their requirements. Once a Healthcare MRS provider establishes itself as a reputable, reliable source of data to customers, there are generally few hurdles to expansion in the market.
- (62) Apart from the Applicant's voluntary suspension of the Market Sales Survey in 2015, the Applicant is not aware of any instances of market entry, market exit and market consolidation in the market for Healthcare MRS in Hong Kong in the five years prior to this Application.

**A.6** *Provide copies of any reports, studies, surveys or comparable documents prepared by third parties<sup>66</sup> in the past five years which refer to the competitive conditions in any of the relevant market(s) (including plausible alternative markets) identified in paragraph 1.1 above.*

**I. Pharmaceutical products in Hong Kong**

(63) A recent third-party study of the pharmaceutical industry in Hong Kong is provided in the following:

**Annex 12** [CONFIDENTIAL] Third party data source

**II. Market research services in Hong Kong (plausible alternative market)**

(64) The Applicant does not have any reports, studies, surveys or comparable documents prepared by third parties which refer to the competitive conditions in the market for market research services in Hong Kong.

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<sup>66</sup> *For example, trade associations, market analysts and market researchers etc.*

# **Annex 9: ATC3 categories under the Market Sales Survey**



**Annex 9****ATC3 categories under the Market Sales Survey**

The 186 product categories at the ATC3 level would be the subject of the Market Sales Survey are:

<b>ATC3 Code</b>	<b>Therapeutic Area</b>
1. A2A	ANTACIDS, ANTIFLATULENTS, CARMINATIVES
2. A2B	ANTIULCERANTS
3. A3A	PLAIN ANTISPASMODICS AND ANTICHOLINERGICS
4. A3F	GASTROPROKINETICS
5. A4	ANTIEMETICS AND ANTINAUSEANTS
6. A4A	ANTIEMETICS AND ANTINAUSEANTS
7. A5B	HEPATIC PROTECTORS, LIPOTROPICS
8. A6A	LAXATIVES
9. A7E	INTESTINAL ANTI-INFLAMMATORY AGENTS
10. A7F	ANTIDIARRHOEAL MICRO-ORGANISMS
11. A8A	ANTIOBESITY PREPARATIONS, EXCLUDING DIETETICS
12. A9A	DIGESTIVES, INCLUDING ENZYMES
13. A10C	HUMAN INSULINS AND ANALOGUES
14. A10B	ORAL ANTIDIABETICS
15. A10H	SULPHONYLUREA ANTIDIABETICS
16. A10K	GLITAZONE ANTIDABETICS
17. A10L	ALPHA-GLUCOSIDASE INHIBITOR ANTIDIABETICS
18. A10N	DPP-IV INHIBITOR ANTIDIABETICS
19. A10P	SGLT2 INHIBITOR A-DIABS
20. A10S	GLP-1 AGONIST ANTIDIABETICS

ATC3 Code	Therapeutic Area
21. A10X	OTHER DRUGS USED IN DIABETES
22. A11A	MULTIVITAMINS WITH MINERALS
23. A11C	VITAMIN A AND D, INCLUDING COMBINATIONS OF THE TWO
24. A11D	VITAMIN B1 AND COMBINATIONS OF B1, B6, B12
25. A11E	VITAMIN B COMPLEX
26. A11G	VITAMIN C, INCLUDING COMBINATIONS WITH MINERALS
27. A12A	CALCIUM PRODUCTS
28. A12B	POTASSIUM PRODUCTS
29. A14A	ANABOLIC HORMONES, SYSTEMIC
30. B1A	ANTICOAGULANTS NON-INJECTABLE
31. B1B	ANTICOAGULANTS INJECTABLE
32. B1C	PLATELET AGGREGATION INHIBITORS
33. B1D	FIBRINOLYTICS
34. B2A	ANTIFIBRINOLYTICS
35. B2B	ANTAGONISTS (ANTIDOTES TO ANTICOAGULANTS)
36. B2D	BLOOD COAGULATION
37. B3C	ERYTHROPOIETIN PRODUCTS
38. B3X	OTHER ANTI-ANAEMIC PRODS, INCL, FOLIC, ACID, FOLINIC ACID
39. B5A	BLOOD AND RELATED PRODUCTS
40. B6C	OTHER HAEMATOLOGICAL AGENTS
41. C1B	ANTI-ARRHYTHMICS
42. C1C	CARDIAC STIMULANTS EXCLUDING CARDIAC GLYCOSIDES
43. C1D	CORONARY THERAPY EXCLUDING CALCIUM ANTAGONISTS AND NITRITES

ATC3 Code	Therapeutic Area
44. C1E	NITRITES AND NITRATES
45. C1X	ALL OTHER CARDIAC PREPARATIONS
46. C2A	ANTIHYPERTENSIVES (OF NON-HERBAL ORIGIN) PLAIN
47. C3A	DIURETICS
48. C4A	CEREBRAL AND PERIPHERAL VASOTHERAPEUTICS
49. C5A	TOPICAL ANTI-HAEMORRHOIDS
50. C5B	VARICOSE THERAPY, TOPICAL
51. C5C	VARICOSE THERAPY, SYSTEMIC
52. C7A	BETA-BLOCKING AGENTS, PLAIN
53. C7B	BETA-BLOCKING AGENTS, COMBINATIONS
54. C8A	CALCIUM ANTAGONISTS, PLAIN
55. C8B	CALCIUM ANTAGONISTS, COMBINATIONS
56. C9A	ACE INHIBITORS, PLAIN
57. C9B	ACE INHIBITORS, COMBINATIONS
58. C9C	ANGIOTENSIN-II ANTAGONISTS, PLAIN
59. C9D	ANGIOTENSIN-II ANTAGONISTS, COMBINATIONS
60. C9X	OTHER AGENTS ACTING ON THE RENIN-ANGIOTENSIN SYSTEM
61. C10A	CHOLESTEROL AND TRIGLYCERIDE REDUCTION PREPARATIONS
62. D1A	ANTIFUNGALS, DERMATOLOGICAL
63. D2A	EMOLLIENTS, PROTECTIVES
64. D5A	TOPICAL ANTIPSORIASIS AND SIMILAR PRODUCTS
65. D7A	PLAIN TOPICAL CORTICOSTEROIDS
66. D7B	TOPICAL CORTICOSTEROID COMBINATIONS

ATC3 Code	Therapeutic Area
67. D8A	ANTISEPTICS AND DISINFECTANTS
68. D10A	TOPICAL ANTI-ACNE PREPARATIONS
69. D10B	ORAL ANTI-ACNE PREPARATIONS
70. D11A	OTHER DERMATOLOGICAL PREPARATIONS
71. G1A	TRICHOMONACIDES
72. G1B	GYNAECOLOGICAL ANTIFUNGALS
73. G2A	LABOUR INDUCERS
74. G2B	OTHER CONTRACEPTIVES
75. G2D	PROLACTIN INHIBITORS
76. G3A	HORMONAL CONTRACEPTIVES, SYSTEMIC
77. G3B	ANDROGENS, EXCLUDING G3E, G3F
78. G3C	OESTROGENS, EXCLUDING G3A, G3E, G3F
79. G3D	PROGESTOGENS, EXCLUDING G3A, G3F
80. G3F	OESTROGEN WITH PROGESTOGEN COMBINATIONS, EXCLUDING G3A
81. G3G	GONADOTROPHINS, INCLUDING OTHER OVULATION STIMULANTS
82. G3H	OTHER SEX HORMONES
83. G4A	URINARY ANTI-INFECTIVES AND ANTISEPTICS
84. G4B	OTHER UROLOGICAL PREPARATIONS
85. G4C	BPH PRODUCTS
86. H1A	ACTH
87. H1C	GONADOTROPHIN-RELEASING HORMONES
88. H2A	SYSTEMIC CORTICOSTEROIDS, PLAIN
89. H2B	SYSTEMIC CORTICOSTEROID COMBINATIONS

ATC3 Code	Therapeutic Area
90. H4A	CALCITONINS
91. H4C	GROWTH HORMONES
92. H4V	OTHER HORMONES AND PREPARATIONS WITH SIMILAR ACTIONS
93. J1A	TETRACYCLINES AND COMBINATIONS
94. J1C	BROAD SPECTRUM PENICILLINS
95. J1D	CEPHALOSPORINS
96. J1F	MACROLIDES AND SIMILAR TYPES
97. J1G	FLUOROQUINOLONES
98. J1K	AMINOGLYCOSIDES
99. J1M	RIFAMPICIN/RIFAMYCIN
100. J1P	OTHER BETA-LACTAM ANTIBACTERIALS, EXCLUDING PENICILLINS, CEPHALOSPORINS
101. J1X	OTHER ANTIBIOTICS
102. J2A	SYSTEMIC AGENTS FOR FUNGAL INFECTIONS
103. J4A	DRUGS FOR THE TREATMENT OF TUBERCULOSIS
104. J5	ANTIVIRALS FOR SYSTEMIC USE
105. J5B	ANTIVIRALS, EXCLUDING ANTI-HIV PRODUCTS
106. J5C	HIV ANTIVIRALS
107. J7A	PURE VACCINES
108. J7B	COMBINATIONS OF VACCINES
109. K1A	ELECTROLYTE SOLUTIONS (>=100ML)
110. K1B	STANDARD SOLUTIONS (>=100ML)
111. K1E	AMINO ACID SOLUTIONS

ATC3 Code	Therapeutic Area
112. L1A	ALKYLATING AGENTS
113. L1B	ANTIMETABOLITES
114. L1C	VINCA ALKALOIDS AND OTHER PLANT PRODUCTS
115. L1D	CYTOSTATIC ANTIBIOTICS
116. L1X	ALL OTHER CYTOSTATICS
117. L2A	CYTOSTATIC HORMONES
118. L2B	CYTOSTATIC HORMONE ANTAGONISTS
119. L3	IMMUNOSTIMULATING AGENTS
120. L3A	IMMUNOSTIMULATING AGENTS EXCLUDING INTERFERONS
121. L3B	INTERFERONS
122. L4	IMMUNOSUPPRESSIVE AGENTS
123. L4A	IMMUNOSUPPRESSIVE AGENTS
124. L4X	OTHER IMMUNOSUPPRESSANTS
125. M1A	ANTI-RHEUMATICS, NON-STEROIDAL
126. M2A	TOPICAL ANTI-RHEUMATICS
127. M3A	MUSCLE RELAXANTS, PERIPHERALLY ACTING
128. M3B	MUSCLE RELAXANTS, CENTRALLY ACTING
129. M4A	ANTI-GOUT PREPARATIONS
130. M5B	BONE CALCIUM REGULATORS
131. M6A	ANTI-INFLAMMATORY ENZYMES
132. N1A	ANAESTHETICS, GENERAL
133. N1B	LOCAL ANAESTHETICS
134. N2A	NARCOTICS

ATC3 Code	Therapeutic Area
135. N2B	NON-NARCOTICS AND ANTI-PYRETICS
136. N2C	ANTI-MIGRAINE PREPARATIONS
137. N3A	ANTI-EPILEPTICS
138. N4A	ANTI-PARKINSON DRUGS
139. N5A	ANTIPSYCHOTICS
140. N5B	HYPNOTICS/SEDATIVES
141. N5C	TRANQUILLISERS
142. N6A	ANTI-DEPRESSANTS
143. N6B	PSYCHOSTIMULANTS
144. N6C	PSYCHOLEPTIC-PSYCHOANALEPTIC COMBINATIONS
145. N6D	NOOTROPICS
146. N6E	NEUROTONICS AND OTHER MISCELLANEOUS PRODUCTS
147. N7B	ANTISMOKING PRODUCTS
148. N7D	ANTI-ALZHEIMER PRODUCTS
149. N7X	ALL OTHER CNS DRUGS
150. P1B	ANTHELMINTICS, EXCLUDING SCHISTOSOMICIDES
151. P1D	ANTI-MALARIALS
152. R1A	TOPICAL NASAL PREPARATIONS
153. R1B	SYSTEMIC NASAL PREPARATIONS
154. R2A	THROAT PREPARATIONS
155. R3	BRONCHODILATORS AND ANTI-ASTHMA PREPARATIONS
156. R3A	B2-STIMULANTS
157. R3B	XANTHINES

ATC3 Code	Therapeutic Area
158. R3C	NON-STEROIDAL RESPIRATORY ANTI-INFLAMMATORIES
159. R3D	CORTICOIDS
160. R3F	COMBINATIONS OF B2-STIMULANTS WITH CORTICOIDS
161. R3G	ANTICHOLINERGICS-PLAIN, AND COMBINATIONS WITH B2-STIMULANTS
162. R3J	ANTILEUKOTRIENE ANTI-ASTHMATICS
163. R3X	ALL OTHER BRONCHODILATORS
164. R5	COUGH AND COLD PREPARATIONS
165. R5A	COLD PREPARATIONS WITHOUT ANTI-INFECTIVES
166. R5C	EXPECTORANTS
167. R5D	ANTITUSSIVES
168. R6A	SYSTEMIC ANTIHISTAMINES
169. S1A	OPHTHALMOLOGICAL ANTI-INFECTIVES
170. S1B	OPHTHALMOLOGICAL CORTICOSTEROIDS
171. S1C	OPHTHALMOLOGICAL CORTICOSTEROID/ANTI-INFECTIVE COMBINATIONS
172. S1E	MIOTICS AND ANTIGLAUCOMA PREPARATIONS
173. S1G	PREPARATIONS FOR THE TREATMENT OF NON-SPECIFIC CONJUNCTIVITIS
174. S1K	ARTIFICIAL TEARS AND OCULAR LUBRICANTS
175. S1N	PREPARATIONS TO PREVENT CATARACT AND ANTICATARACTOGENICS
176. S1P	OCULAR ANTINEOVASC. PRODS
177. S1R	OPHTHALMIC NONSTEROIDAL ANTI-INFLAMMATORIES
178. S1X	OTHER OPHTHALMOLOGICALS
179. T1C	GASTROENTEROGRAPHY
180. T1E	MRI AGENTS



ATC3 Code	Therapeutic Area
181. T1X	OTHER IMAGING AGENTS
182. T2X	ALL OTHER DIAGNOSTIC TESTS
183. V3A	ALL OTHER THERAPEUTIC PRODUCTS
184. V6A	SLIMMING PREPARATIONS
185. V6D	OTHER NUTRIENTS
186. V10X	OTHER THERAPEUTIC RADIOPHARMACEUTICALS

**Annex 10:**  
**[CONFIDENTIAL]**  
**Third party data source**

**Annex 11:**  
**[CONFIDENTIAL]**  
**Top customers of the Applicant's full  
members**

**Annex 12:**  
**[CONFIDENTIAL]**  
**Third party data source**

# **Annex 13:**

## **Examples of benefits brought about by the Market Sales Survey**

## Annex 13

### Examples of benefits brought about by the Market Sales Survey

The Applicant asked the company executives of some of its members for examples of what they would consider to be the benefits of the Applicant's past market sales survey (the "Past Surveys") and the drawbacks of the Applicant's suspension of Past Surveys in 2015. The nature of such requests is that the examples are anecdotal.

The common views expressed by those executives were that, if the Past Surveys are resumed in the form of the Market Sales Survey and the Sales Survey Report, it would facilitate the following:

- (1) Better, more efficient allocation of stock for existing products.
- (2) Easier introduction of new products into the market.
- (3) Enhanced marketing and distribution efforts of pharmaceutical companies.

#### 1 Better, more efficient allocation of stock for existing products

12 executives from different multinational pharmaceutical companies in Hong Kong thought that it was easier to forecast demand of pharmaceutical products in Hong Kong before the Applicant suspended the Past Surveys in 2015.

The ability of pharmaceutical companies to accurately forecast the demand for its products in Hong Kong is crucial to maintaining an adequate stock of pharmaceutical products in Hong Kong, especially in terms of assessing the timing for such decisions and the quantities to be ordered. Inability to accurately forecast demand trends may result in wastage situations due to over-stocking and inability to meet demands due to under-stocking. Generally speaking, forecasting demand of pharmaceutical products in Hong Kong becomes considerably more difficult in the absence of historical sales data and current market data, as there would be no basis for using quantitative methods of forecasting demand. The availability of historical sales data and current market data is therefore crucial in production planning, inventory management, and at times in assessing future capacity requirements.

After suspension of the Past Surveys, many executives thought that it was more difficult to forecast demand. While some of the companies switched to rely on market data bought from IMS Chinametrik Ltd ("IMS") or market data from their own research, the common view is that market data from the Past Surveys provided much more reliable and timely data that enabled them to better forecast future demand trends, especially for seasonal products. A number of respondents noted that IMS data was not particularly useful for their purposes because IMS data did not differentiate between the public sector from other sectors. One executive said that *"With the help of the HKAPI market survey data, we can have clear picture on the patient cases which help to have more accurate forecast."*

Many company executives shared the view that failure to accurately anticipate demand of pharmaceutical products may result in over-estimating or under-estimating the demand of such products. The overwhelming consensus was that the Past Surveys helped enhance pharmaceutical companies' ability to forecast demand of pharmaceutical products in Hong Kong, which in turn generally helped avoid stock write-offs and out-of-stock situations for customers of pharmaceutical products.

## **2 Easier introduction of new products into the market**

12 executives from different multinational pharmaceutical companies in Hong Kong thought that the Past Surveys were helpful in facilitating the decision-making process for introducing new products into Hong Kong.

Decisions to introduce new pharmaceutical products often take place at the regional or global headquarters of multinational pharmaceutical companies, which are overseas. Due to the investments required before a new pharmaceutical product can be introduced into Hong Kong, there needs to be a solid justification by the Hong Kong business teams to justify introducing new pharmaceutical products in Hong Kong. This is principally due to the relatively small size of the pharmaceutical market in Hong Kong. Local management in Hong Kong of multinational pharmaceutical companies therefore generally need a solid, quantified, basis to demonstrate the commercial potential and feasibility of introducing new pharmaceutical products, in order to justify the time and investment required for introducing new pharmaceutical products and to define the marketing strategy for launching new products.

According to many executives, the Past Surveys very often provided the statistical basis for establishing the market potential of a new product in Hong Kong, which in turn informed and persuaded their global headquarters to go ahead with proposed launches of new products in Hong Kong. After suspension of the Past Surveys, many executives thought that new product launches were more difficult in Hong Kong because they did not have a full picture of the market and were not able to establish the market potential of the new product in Hong Kong, which in turn dissuaded their global headquarters from launching new products in Hong Kong. One executive noted that the absence of market data had been a significant issue for one of the new product launches in Hong Kong at one point after the suspension of the Past Surveys in 2015. To resolve that issue, the company had to purchase market data from IMS before the launch of the new product.

The suspension of the Past Surveys had a greater impact on pharmaceutical companies that solely relied on the Past Surveys before its suspension. One executive of such a company noted that, in at least one instance, the suspension of the Past Surveys left the company without any meaningful reference for establishing the market potential of a new product. As a result, the company decided to suspend the launch of that product. Another executive had the experience of global headquarters citing the lack of sufficient Hong Kong market data establishing market potential as the reason for deciding not to launch a new product in Hong Kong, and the lack of such data was due to the suspension of the Past Surveys.

One executive praised the reliability of the data in the Past Surveys and thought that the Past Surveys were especially helpful with internal decisions at global headquarters when introducing new products that involved long production time and high production costs.

## **3 Enhanced marketing and distribution efforts of pharmaceutical companies**

12 executives from different multinational pharmaceutical companies in Hong Kong thought that the suspension of the Past Surveys since 2015 made marketing efforts more difficult in Hong Kong.

Market data is important to pharmaceutical companies because it enables them to efficiently assess, benchmark and analyse the sales performance of their products vis-à-vis the performance of their competitors. This in turn enables pharmaceutical companies to plan and allocate their resources for marketing purposes, and to focus market assessment efforts into specific therapeutic areas particularly requiring improvement.

According to many executives, the Past Surveys were used as the basis of their understanding of the situation on the market and were often used as reference material when allocating and focusing resources for marketing purposes. This is important for planning resources ahead of marketing events, such as deciding whether additional staff or special marketing tactics are required for particular therapeutic areas. One executive explained that the Past Surveys enabled them *“to understand the demand and trend of different sectors which enable [sic] us to allocate the right resource for different sectors.”*

Many executives noted that they experienced difficulties in marketing efforts after the Applicant suspended the Past Surveys because of the lack of market information. One executive explained that the absence of the Past Surveys *“slowed down the overall marketing process as we need to cross check with multiple data sources for generate [sic] marketing insights.”* Another executive described his experience of marketing in the absence of the Past Surveys was *“just like shooting in the dark”*.