

Consumer Council

Study into the Supply of Soft Drink in Schools

INTRODUCTION

1. This study reports the Council's findings on an allegation of anti-competitive exclusive dealing in the supply of soft drinks to school kiosks.

BACKGROUND

2. The study was commenced in April 1998 following receipt of a complaint by a foodstuffs company that it could not sell its drinks via kiosks in primary schools because the kiosks had entered into allegedly exclusive supply agreements with two major brands. A sample survey conducted by the complainant on 50 primary schools showed that 82% of school kiosks were tied - 70% of the schools only supplied Vitasoy drinks¹ and 12% only supplied Swire drinks². The complainant alleged the existence of exclusive supply agreements in school kiosks lessened competition in the wider Hong Kong market for soft drink because of the brand loyalty that could be built up in the school soft drink market. Denial of an ability to supply meant that those excluded could not build up that brand loyalty.

3. The Council decided to include secondary school kiosks within the scope of the study notwithstanding the differences between the scale of operation and the differences in mobility of students that could affect patronage of the kiosks. There is a degree of resemblance between primary and secondary schools as far as kiosks are concerned, and the issue of exclusive dealing was found to be common between them. The issues identified by the Council for its consideration were:

- to what extent are the supply arrangements currently in existence between suppliers and kiosk operators acting as barriers to entry and are preventing or hindering suppliers from entering the school kiosk soft drink market, or the wider Hong Kong soft drink market; and
- what if any detriments to consumers (students) arise from the arrangements in terms of their effect on retail prices, choice of product, and the level of service.

4. The Council interviewed various parties in the soft drink industry including suppliers, schools, kiosk operators and the Education Department to obtain

¹ Drinks supplied by Vitasoy International Holdings Ltd.

² Drinks supplied by Swire Coca Cola HK Ltd.

information on the issue. We also contacted the Beverage Manufacturers Association of Hong Kong (BMA) for information but it was unable to provide us with any sales data concerning individual soft drink suppliers because it does not collect the data.

5. In order to study the implications of exclusive supply on soft drink price, we conducted a survey of 44 primary and 33 secondary schools in mid-November 1998. The school kiosks selected were located in Kowloon City. The reason for selecting kiosks in the same locality was to minimise the impact of rental cost variations.

6. The Council appreciates the time and effort that was given by the various parties named in this study in providing information and commenting on the issues involved. The Council particularly acknowledges the time given by the surveyed schools, the Education Department, Hong Kong Subsidized Secondary School Council and Subsidized Primary School Council, who were consulted on the Council's findings, and notes its appreciation for the valuable comments provided.

MARKET/CONDUCT ANALYSIS

Products Offered

7. It would appear that the perceived nutritional value of some drinks, and the influence exercised through the Education Department guidelines are factors which apply to the decision by at least some school administrations as to what products kiosks should offer to their students. Both Vitasoy and Swire, offer a full selection of competitive drinks³ including carbonated and non-carbonated, soya milk, juice and tea. For the purposes of this study, the term soft drinks is used for the complete range of drink products offered in school kiosks regardless of their perceived nutritional value.

Market Structure

8. The Council's analysis, supported by information obtained from market participants, is that there are a number of separate markets relevant to this study. These are:

- the market for supply and demand in soft drinks in relation to school kiosks;
- the wider market of supply and demand of soft drinks in Hong Kong generally; and
- the market for provision of school kiosk services.

³ Vitasoy offers carbonated and non-carbonated drinks, soya milk and dairy milk, distilled water, juice and tea. Similar to Vitasoy, Swire sells carbonated and non-carbonated drinks, soya milk, juice and tea.

9. The market for supply of soft drinks to school kiosks and the market for supply of school kiosk services while they are distinguishable at a functional level, are closely interrelated due to the vertical control exercised in varying degrees by soft drink suppliers⁴. In addition, the Council's impression is that demand for soft drinks in Hong Kong schools partly exhibits the characteristics of a captive market, particularly in primary schools. This is because of the control that can be exercised over students mobility during breaks which would limit their purchases of soft drinks from school kiosks. Vitasoy informed the Council that it considered there might be an element of this in primary schools. However, it did not consider it applied to secondary schools, because of less control over student mobility and the fact that they (in addition to primary school students) could bring their own drinks to school. Another important feature of school kiosks is that the opportunities for making sales to students are limited to those periods when students have their breaks, and that there is limited potential for expanding kiosk traffic beyond the immediate school population.

10. Vitasoy gave a number of reasons for its involvement in school kiosks. One of the main reasons for supplying to schools was the ability to engage in 'sampling' of its products. There was also a historical reason, which was to pursue the mission of the company's founder to provide nutritional beverages and food to the school population at an affordable price. The company also noted that the business was not particularly profitable. It claimed that it was operating some kiosks at a loss and saw the investment in kiosks as a 'total business'.

11. To a large extent it would appear that Vitasoy has, over a period of some thirty years, actually developed both the market for supply of soft drinks to school kiosks and the market for supply of school kiosk services. According to Vitasoy it pioneered advances in school kiosks by investing in the provision of refrigerated cabinets and heaters for cold and hot drinks to stimulate demand for their products, to the point where there is now a competitive market to provide kiosk services into those schools where it is profitable to do so. Hence, the existence of some private catering companies operating kiosks.

12. The Council's estimate is that the supply of soft drinks to the school kiosk market, compared to the wider Hong Kong market⁵ is less than 5%. Nevertheless, while the market for the supply of soft drinks to school kiosks is quite small compared to the wider Hong Kong soft drink market, its importance in terms of developing market presence (through promoting product awareness and brand loyalty) in the younger generations cannot be discounted. Firstly, the complainant feels it is important, hence the complaint to the Council. Secondly, it appears to the Council that Vitasoy itself would not have invested in the past, nor continue to invest if it did not also saw the importance.

⁴ School kiosks are operated in a number of ways. Either by the school itself, by an independent operator, or by the soft drink supplier.

⁵ Based on the data provided by the Census and Statistics Department, the value of production by the soft drinks and carbonated waters industries is worth HK\$3,177,011,000 in 1997.

Market Share

13. A key feature of the market for school kiosk services in Hong Kong is the extent of vertical control. Vitasoy, a major player in the school soft drink market, undertakes manufacturing, wholesaling and retailing of drinks. In retailing, Vitasoy controls (either through direct management, or exclusive supply contracts) a substantial proportion of the school kiosks – people in the trade estimated the share to be around 60-70% of the school kiosk market⁶.

14. In general, Vitasoy acquires operation rights of school kiosks by grant of lease⁷ and some of these are through competitive tenders. Vitasoy either takes direct management or passes the operation rights to its employees' relatives and acquaintances, or retired staff.

15. According to the information provided by those we interviewed, the ties between Vitasoy and kiosks are becoming less influential as more and more schools put kiosks out to tender. We were told, Vitasoy does not always succeed in tenders.

16. The other major soft drink supplier, Swire, also enters into exclusive supply agreements with school kiosks. Swire informed the Council that many of these kiosks are managed by its former employees. The scale of Swire's tied kiosks is much less than Vitasoy (12% of primary schools - see paragraph 2 of this paper).

17. In the remainder of the school kiosk market independent individuals run a significant number of school kiosks. These individuals include school staff or associated parties such as retired staff or relatives and friends of staff. Some catering service companies, namely Camry Catering Service Ltd. and Sun Generation Ltd. also participate in school kiosk business.

18. To provide an indication of the market for supply of school kiosk services to primary and secondary schools, we gathered the following information from school kiosks in Kowloon City.

Supply of kiosk services to primary and secondary schools

Kiosk operator	Primary schools	Secondary schools
Soft drink suppliers / persons recommended by soft drink suppliers	30%	32%
Catering companies / food suppliers	15%	42%
School staff / relatives of staff / retired staff	55%	26%
Total % of share:	100%	100%

⁶ There are no statistics on the number of kiosks operating in Hong Kong. By assuming all primary and secondary schools have their own kiosks, the number of kiosks would be approximately equal to the number of schools. In 1998/99, the total number of schools was 1,301 comprised of 830 primary schools and 471 secondary schools.

⁷ In general, the contractual arrangements between Vitasoy and schools usually last for one to three years and are renewable.

Tendering process

19. From our inquiries, it appears that schools that use a form of tendering, or that seek quotations for operation of their kiosks, typically require bidders to submit offer prices (rental charges for the use of kiosks) and prices of major items such as lunchboxes and soft drinks for their consideration. In some cases schools will attempt to extract other advantages from bidders such as capital improvements to the school kiosk area. It would appear that many schools also consider the experience that a person has with schools, and their ability to work closely with the school management as crucial factors in determining who should operate the kiosk. In some cases this may be considered more important than the rent offered.

Barriers to entry

20. There are considerable capital investments in providing and maintaining kiosk facilities and improving the sanitary environment of kiosks. However, the extent of investment required would be determined to a large extent by the pressures placed on operators by the school administration. This pressure for investment could vary depending on what the school felt it could extract from a bidder, for the benefit of the school, relative to the commercial attraction in supplying services to the school.

21. As noted earlier, Vitasoy has, over the last thirty years successfully acquired extensive operation rights in school kiosks and this translated into an influential presence exercised through tied kiosks. The apparent preference by some schools and the Education Department's guidelines towards 'nutritional' drinks would also appear to be a barrier to entry, for those soft drink suppliers who do not offer drinks that fit that definition.

22. Notwithstanding the entry barriers noted above, they would not appear to be unassailable, given the presence of other products and kiosk operators in the markets.

Guidelines from Education Department

23. The Education Department has issued general guidelines⁸ that in addition to other matters, have provisions which cover the operation of kiosks. These directions suggest schools to form a 'School Tuckshop Committee'⁹. The committees are to be responsible for supervising and monitoring the operation of their kiosks in respect of price levels and quality of food and drink to be consumed by students. While the general guidelines do not cover any requirements on how schools choose kiosk operators, they do recommend

⁸ The Guidelines on the Operation of Servicing and Trading Activities in Aided Schools issued by the Education Department, administration circular no.37/95.

⁹ The school tuckshop committee composes of 3-4 teaching staff appointed by school head and a representative from parent-teacher association of the school.

schools to call for tenders in choosing school tailors for provision of uniforms, physical education kits, badges and ties.

24. While the general guidelines stipulate that "pupils should be given freedom of choice for brands where practicable", the Education Department has issued a separate guideline on meal arrangements¹⁰ which addresses the issue of choice of products for sale at kiosks. These guidelines state that schools should consider the nutritional value of products sold and advise kiosk operators to "sell mineral water, unflavoured and low-fat milk, and reduce selling carbonated drinks; and sell more healthy snacks such as..... soya milk," . Based on inquiries by the Council, it would appear that the Education Department's attention seems to be limited to the hygiene condition of kiosks. It does not appear that any monitoring of the 'nutritional value' aspect of the meal arrangement guidelines, or the direction in the general guidelines relating to choice of brands, is undertaken. This is rightly so, as the monitoring should fall within the responsibility of the school management.

25. The main focus of the Education Department consideration, as far as the operation of school kiosks is concerned, appears therefore to be largely directed not at the economics of having a school kiosk or satisfying student choices, but student welfare in terms of hygiene and dietary concerns. The Council assumes that the issue of hygiene and nutrition would have precedence over the economics of kiosk operation and choice of brands. However, this is not specifically stated by the Education Department.

26. It is noted that the guidelines only provide direction to schools and schools can exercise their discretion as to whether or not they should follow the guidelines.

Market Conduct

Exclusive arrangements

27. The Council was not able to obtain a copy of any soft drink supply agreements with kiosk operators. However, it understands that the agreements which are entered into provide that either

- kiosk operators agree to stock only one brand of products and on that basis the supplier agrees to provide a guaranteed discount from a set minimum up to a maximum (the maximum presumably being for high volume sales); or
- suppliers agree to provide non-exclusive kiosk operators product on a discount basis but the discount rate is lower than that available to operators who enter into exclusive arrangements.

¹⁰ Guidelines on Meal Arrangements in Schools issued by the Education Department, administration circular no. 57/96.

28. Vitasoy stated to the Council that it would not refuse supply if a kiosk operator stocked competing product. However, the Council assumes that with substantial discounts on offer for exclusivity, there would be clear incentives for a kiosk operator, particularly with small turnover, to maximise volume discounts through exclusive supply arrangements.

29. In response to a survey conducted by the Council on suppliers' terms and conditions, respondents confirmed that exclusive supply of soft drinks in school kiosks, was more pronounced in primary than in secondary schools. Moreover, nearly all primary school kiosks we surveyed entered into exclusive supply agreements with Vitasoy.

30. For kiosks entering into exclusive supply agreements with Vitasoy, Vitasoy exerts control on these kiosks by specifying what drinks may be sold in the kiosks and recommending maximum retail price. A range of discounts are available, with schools having exclusive kiosk arrangements receiving higher discounts and support. The reason for the difference in discount rates is also tied to the amount of support, in terms of capital assistance that is given to exclusive kiosk operators.

31. Vitasoy claimed its close supervision of kiosks enabled it to oversee quality of kiosk services with a view to enhancing compliance with contract terms laid down by schools. In some cases, due to unfamiliarity with running a business, welcome assistance is provided to schools and independent operators. Nevertheless, Vitasoy claimed that it had no absolute power to dictate contract terms.

32. Swire informed the Council that it offered discounts to operators who entered into exclusive supply agreements. Swire did not offer any reasons of exclusive arrangements, suggesting simply that it is the practice of the trade.

33. The BMA shared a similar view by saying that exclusive supply arrangements are mutual agreements made between distributors and vendors, a practice which is common in many countries around the world. With regard to exclusive supply arrangements in the wider Hong Kong soft drink market, the BMA commented that

"Importantly, these arrangements represent a tiny portion of the soft drinks market in Hong Kong. As you will be aware, the vast majority of soft drinks are sold locally through supermarkets and convenience stores where there are absolutely no exclusive supply arrangements or barriers"

34. Although the exclusive supply agreements in the school soft drink market only represent a tiny portion of the wider Hong Kong soft drink market, their effects in terms of soft drink price and choice of product cannot be ignored. This is particularly the case in those circumstances where due to constraints on students' mobility during breaks, the scope for substitute purchases from other outlets is limited.

35. It should be noted that the Council's study is not concerned with the wider Hong Kong market for soft drinks. If the wider market was characterised

by extensive exclusive dealing arrangements, the Council's views could well be different to the analysis of the school kiosk market as represented in this paper.

Pricing Behavior

36. An independent catering services company running thirteen school kiosks informed the Council that the price levels of soft drinks sold at its kiosks are generally higher than others because it could not obtain the same discount terms currently enjoyed by other kiosks entering into exclusive supply.

37. Our survey findings drew a similar conclusion – kiosks engaged in exclusivity arrangements offered limited choice of drinks but generally charged students slightly less than those non-exclusive kiosks. The special discounts granted to kiosk operators, in return for product exclusivity, would therefore appear to be translated into lower prices for students. The survey results showed that the price differences between exclusive and non-exclusive kiosks are roughly in the range of 3% - 12%, with exclusive kiosk generally sold at lower prices.

38. To take an example, two popular soft drink items were selected for comparison, between different outlets (including non-school outlets) as illustrated in the following table.

Drink items	School Kiosk		Supermarket	Conv. Store
	Exclusive	Non-Exclusive		
Vitasoy—soyamilk 250ml	\$3.59	\$3.82	\$3.45	\$4.00
Hi-C – lemon tea 250ml	\$3.75	\$3.86	\$3.00*	\$4.00
Ranking (from lowest to highest)				
Supermarket < Exclusive Kiosk < Non-Exclusive Kiosk < Convenience Store				

Note: Figures are weighted-average prices of "chilled" soft drinks, except for Hi-C items selling in supermarkets.

* Price for non-chilled Hi-C lemon tea. Chilled tetra-pack drinks selling in supermarkets generally cost 40-50 cents more than non-chilled drinks.

39. In the case of Vitasoy soyamilk, when the average kiosks' pricing is compared with supermarkets and convenience stores in the same district, supermarkets are found to offer the lowest price, school kiosks the second lowest and convenience stores the highest. When compared between school kiosks, the price difference between those with and without exclusive arrangement is 6%.

40. However, the price discounts were not uniform. In some cases, it was found that kiosks not engaging in exclusivity offered comparable prices to kiosks with exclusivity. This may be due to certain kiosks' strong bargaining power with suppliers to obtain discounts, or their relatively cost-effective operations. Alternatively, it could be an indication that on the demand side, kiosk operators face competition, particularly in secondary schools, from nearby stores and supermarkets. There may also be pressure from school administrations to keep prices down.

Offer of Sponsorship and Donations

41. Another common practice in the market is the offer of sponsorships and donations to schools. Vitasoy claims that in order to meet the expectations of schools it provides "scholarships, new furniture for students, purchase of education equipment and free product samplings to both staff and students once every year, and mostly twice in a school year." Vitasoy considers this practice a necessary part of its promotional expenses.¹¹

ANALYSIS OF DETRIMENTS AND BENEFITS

42. This section of the study examines the information obtained from the market place and analyses the information against what the Council views as detriments and benefits. As noted in paragraph 3 of this paper, the Council's study has attempted to identify:

- to what extent are the supply arrangements currently in existence between suppliers and kiosk operators acting as barriers to entry and are preventing or hindering suppliers from entering the school kiosk soft drink market, or the wider Hong Kong soft drink market; and
- what if any detriments to consumers (students) arise from the arrangements in terms of their effect on retail prices, choice of product, and the level of service.

43. In terms of analysing detriments and benefits, the test which the Council has constructed is as follows:

- For determining detriments - whether the ties have the effect of substantially lessening competition in one of the markets (i.e. the market for supply and demand of soft drinks in school kiosks, the wider Hong Kong soft drink market, and the market for provision of school kiosk services), or whether the ties have some other detriments in terms of consumer welfare.
- For determining benefits - whether the ties result in any efficiency gains for market participants that can be reasonably translated into benefits for the public across the price, product, and performance spectrum of a market. This would include an assessment of whether there are other social benefits resulting from the ties which outweigh any of the detriments to competition or consumer welfare.

¹¹ The Council did not consider the issue of sponsorship and donations in this paper, however, it did consider the issue in the *Study of Market Practice in the Textbook Industry (published in March 1999)*. It was recommended that schools should record in a public inventory of donations, made available for inspection on request to the public, any sponsorships or donations received from suppliers in the form of goods and services.

Kiosk operators

44. It is apparent that non-exclusive kiosk operators obtain soft drinks on less favorable terms. Advantages which exclusive kiosk operators derive are the special discounts which suppliers give, and in some cases, assistance in operational management of the kiosk. However, it should be noted that there were some kiosk operators not tied to one supplier but still able to offer soft drinks at prices comparable to tied kiosks. It was suggested to the Council that exclusive ties would also deny kiosk operators the ability to respond quickly to student changes in demand, and this could be a factor in some operators deciding not to enter into exclusive supply arrangements. Whether this is a valid argument depends on the economics of the particular kiosk, and the ability to obtain adequate supply of the much sought after product. There are efficiencies to kiosk operators either way, and are matters for careful balance depending on their objectives in entering the school kiosk business. For example, the objectives and economics of a large catering company supplying services to a number of schools would be different to that of a small single kiosk operator. **On the whole, however, it would appear to the Council that there is an incentive and an efficiency benefit for school kiosk operators to enter into exclusive arrangements with soft drink suppliers.**

Prices

45. Tied kiosk operators derive some efficiency benefit from the ties and enjoy the benefits of lower costs. However, it is not certain that consumers will also benefit from lower retail prices, if the cost savings are not passed on. Vitasoy claimed to have exerted some pressure on its tied kiosks by imposing retail price ceilings on its products. **Schools can also exert pressure on kiosk operators to ensure the prices their students have to pay are not excessive.**

Consumer choice

46. Exclusive ties would by their nature restrict soft drink choices available to students. The arrangements might even mean a limited range of products, depending on the range that the supplier has available. For the case of Hong Kong, this restriction of choice however may only extend to the choice of brand as major brands generally offer a wide range of products. For instance, both Swire and Vitasoy offer a full selection of drink products, including carbonated and non-carbonated, soya milk, juice and tea.

47. Nevertheless, the Education Department guidelines, as noted earlier, make some attempt at requiring schools to ensure their students have a choice of brands available, although the clause is qualified by the words 'where practicable'. It is conceivable that if kiosks with very small turnover were required to carry a range of brands, those operators would not have access to the economies of scale that would arise if, by contrast, they only stocked one brand.

48. It follows that if they do not have access to economies of scale they would be less likely to be in a position where they could offer lower retail prices. In addition, the Education Department 'meal arrangements guidelines' seeks to ensure that students are supplied with 'nutritional' drinks. **The implication is**

that choice is but one consideration and may be subordinate to the nutritional needs of students, which would not necessarily equate with their desires.

New entrants

49. There appears to be some validity in the suggestion that exclusive supply arrangements in the market for the supply of soft drink to school kiosks have some effect on competition between different brands of soft drink in the wider Hong Kong market for soft drinks. This is because a new entrant's ability to build product awareness may be impaired. However, whether this is a significant barrier to entry is dependent on a number of factors.

50. The extent to which the barriers are substantial would depend on how many kiosks are tied to one supplier and the duration of ties in the market. The Council's inquiries have indicated that tying arrangements are not limited to one supplier, and they are of a one to three year duration. This would appear to indicate that there is some rivalry between suppliers in their attempts to secure advantage through a presence by way of exclusive ties, in the school kiosk segment of the Hong Kong soft drink market. **It appears therefore that a new entrant does have opportunity at least to secure a similar presence by achieving similar exclusive supply agreements.**

51. In addition, it appears to the Council that there would be other means by which new entrants could build product awareness, as distinct from supplying into school kiosks. For example, through advertising promotional campaigns and similar marketing initiatives. In addition, if a new entrant could secure exclusive supply arrangements with some school kiosk operators, it would benefit from the ties.

SUMMARY OF DETRIMENTS AND BENEFITS

52. In summary, the Council considers that while there may be some detrimental effects on a new entrant's ability to promote product awareness, because some schools are effectively tied to the one brand, it is not simply the tie that is acting as a barrier to entry. Both suppliers and kiosk operators will be drawn to taking advantage of the efficiencies of exclusive supply and those efficiencies should not be arbitrarily dismissed. In effect, the detriments to competition that do exist would seem to arise in relation to the duration of any tie.

53. The means by which any detriments can be addressed is through ensuring there is an opportunity to secure access to the benefits that presence in the school kiosk market can bring. The Council considers that this can be achieved by requiring that schools adhere to the practice of making periodic reviews for operation of the kiosks. This would give any soft drink supplier the opportunity to secure presence in the school soft drink supply market, and thereby promote product awareness and brand loyalty, either by operating the kiosk itself, or by joining with a school appointed operator.

54. The Council considers that the period should not extend beyond three years duration. While some might argue that a shorter period is more

appropriate, there is a benefit in allowing a longer period of time where a level of investment in the kiosk is required in the tender bid. For example, structural improvements to the kiosk surroundings and refrigeration and heating equipment. If the tender being sought were simply for day to day operation of the kiosk, without any capital investment, then only a one-year contract would be appropriate.

55. As far as prices are concerned, the Council considers that there should be additional safeguards in place to ensure that efficiencies by kiosk operators, that are translated into lower wholesale prices, are passed on to consumers. This is in view of the possible opportunities some school kiosks might have to take advantage of the limited retail environment within which they operate.

RECOMMENDATIONS

56. Given the benefits and detriments that apply in relation to the ties, the Council proposes the following recommendations to improve consumer welfare and market competitiveness.

Freedom of Entry

57. The manner in which school kiosks are operated is ultimately a matter for the schools to decide. In some cases schools operate the kiosks themselves, or the operation is let out to an independent operator or a soft drink supplier. In view of the perceived benefits that presence in school kiosks can bring to new entrants or existing market participants in the soft drink industry (i.e. the ability to build product awareness) the Council proposes a number of recommendations. The recommendations accept that while schools should have the choice as to how their kiosks are operated, to reflect their particular conditions, there is a need to recognize that school kiosks are part of a wider market. As is the case with retail operations in that wider market, the principles of free and open competition should also be applied where possible, in school kiosks.

Recommendation (1): The Education Department should advise school management to set a clear policy for determining how their kiosks are to be operated.

Recommendation (2): School management needs to be transparent as to the means by which the policy has been arrived at and that the welfare of schools and students are taken into account.

Recommendation (3): If school management decides to open their kiosks to commercial operations, the Education Department should provide advice as to how schools need to go about the process. The Council believes that in providing advice, the Education Department should recommend to schools that a competitive tendering (or quotation) process for the choice of kiosk operator, or for the supply of soft drinks to the kiosk, should be undertaken. This is similar to the way that tenders or quotations are required for the supply of other products or services to schools. It is recommended that the period of the contract for supply should not extend beyond three years, and should only be one year if

there are no additional services or investments required beyond simply operating a kiosk or supplying soft drink.

Recommendation (4): If school management decides to make other arrangements, for example to have a school caretaker or retired staff operate the kiosk, it is advisable that the terms of the operation be clearly defined. Continuance of the contract should also be subject to satisfactory performance, so as to ensure quality of service and that competitive prices are offered.

Product Choice

58. It is clear that exclusive supply arrangements will limit the range of brands available to students. The arrangements might even mean a limited range of products, affecting the scope of nutritional products, depending on the range that the supplier has available. The Education Department guidelines, where they address student choices, are qualified in that they state that choice of brands should be available, 'where practicable'. Obviously, it would be impractical to require a school kiosk to have a range of brands of all available nutritional products. The decision on supply has to take into account the economics of kiosk operation, in addition to the priorities of schools as educational institutions, which might wish to promote the consumption of nutritional products to the exclusion of others. The main focus of the Education Department appears to be directed not at the economics of school kiosk operation, but student welfare in terms of hygiene and dietary concerns. Given that the Education Department guidelines do not prioritize either choice of brands or the need for nutritional product, it is assumed that the decision is a matter to be left to schools. However, this is not clear from the guidelines.

Recommendation (5): The Education Department guidelines should clarify that choice of product and the range of brands to be made available in school kiosks are matters to be left at schools' discretion.

Recommendation (6): School management should indicate clearly in tender or quotation documents their order of priority on choice of brand or nutritional needs.

Prices

59. Exclusive supply arrangements can bring benefits through increased efficiencies and lower costs, thereby leading to lower retail prices. Some schools might therefore prefer kiosk operators to limit selection to one brand. However, in view of the possible scope for limited competition at the retail level, schools should generally exercise some oversight of prices to ensure that kiosk operators (whether they be independent operators or soft drink suppliers) do not charge excessive prices, and that they pass on any efficiencies that might arise.

Recommendation (7): In those cases where schools tender or seek quotations, they should include a clause in the specifications for the supply of kiosk services (as distinct from the supply of soft drinks only) that bidders should provide a proposed price list of products to be offered

in kiosks. The list could serve as a reference base for schools to use in ensuring that products sold in kiosks are at reasonable prices. A successful bidder for a tender would then be subject to scrutiny on this provision during the period of the contract, and when it attempts to re-tender for the kiosk at the end of the contract.

Recommendation (8): In those cases where kiosks are not put out to tender, for example where it is only a very small operation managed by the school caretaker, or retired staff, it is advisable that schools still apply a form of price monitoring by their School Tuckshop Committees.

CONCLUSION

60. The practice of exclusive dealing in school kiosks only involves a small segment of the soft drink industry. Nevertheless, the Council believes that the work it has undertaken through this study serves a worthwhile purpose in scrutinizing a trade practice that in some circumstances can limit market contestability and impair economic efficiency. As such, the study is important in educating the community of the fact that while there may be some detrimental effects on competition, both suppliers and sellers will be drawn to taking advantage of the efficiencies of exclusive supply. (In this case the Council expects it would follow that students, as consumers, would benefit from lower prices). Consumers will also benefit from lower prices, if the cost advantages of exclusive supply are passed on. There are efficiencies in limiting the range of products that are offered for sale (as there are costs in extending consumer choice) but there are clear benefits in extending consumer choice. There is a balance that has to be achieved in addressing these two factors, and that is ultimately a matter of choice for the party that is tasked with providing the service – in this case a school kiosk service. The point is that whatever mode of operation is chosen, it should not be at the cost of impairing economic efficiency by denying new entry into markets, or denying more efficient operators the opportunity to participate in the market. Whether this is likely to occur will depend on the intended purpose and effects of the practice, and the relevant market or economic conditions.

Consumer Council
28 June 1999

消費者委員會 學校飲品供應市場研究報告

導言

1. 消費者委員會接獲投訴，指稱學校食物部的飲品供應，有獨市交易的安排，報告闡述研究結果。

背景

2. 本報告的研究工作始於一九九八年四月，源自一間食品公司的投訴，指有些小學的食物部經營者與本港兩大牌子飲品供應商可能有獨家供應飲品的安排，導致該公司的產品難以打入學校飲品市場。據該公司向本會提供的調查資料顯示，五十間小學中有 82%有獨家供應飲品的安排 — 70%被訪的學校只供應維他飲品¹，12%只供應太古飲品²。該公司認為，由於獨家供應飲品安排的存在，使飲品在學校市場產生牌子忠誠效應，因而削弱了整個飲品市場的競爭能力，導致市場可能出現壟斷局面，影響公平競爭；一些未能在學校打開市場的飲品供應商，沒有機會在校園內培養牌子忠誠。
3. 本報告除研究小學食物部外，還包括了中學，雖然兩者的食物部經營規模及學生流動性各有迥異，對經營食物部有不同程度的影響，但兩者亦有相似的地方 — 獨家供應飲品安排同樣普遍。本報告的研究範圍包括：
 - 學校飲品供應市場現存的獨家供應安排，有否形成入市障礙，妨礙或阻止其他經營者進入學校飲品市場，甚至整個飲品市場；及
 - 獨家供應安排在飲品零售價、飲品選擇和食物部的服務層面上，對消費者（學生）是否有負面的影響。
4. 本會訪問了有關的機構，包括飲品供應商、學校、食物部經營者和教育署等，徵集資料和意見。本會亦同時向香港飲品製造商會蒐集有關個別飲品供應商的銷貨數據。該商會並沒有蒐集這方面的資料。
5. 為研究獨家供應對飲品價格的影響，本會於一九九八年十一月中，向本港四十四間小學及三十三間中學派發問卷調查學校食物部的飲品價格；所選的學校集中於九龍城區，選擇同區學校的原因是為了減低在租金差別對飲品價格方面的影響。
6. 本會對各有關機構的協助、提供資料和意見，特別是受訪學校、教育署、香港津貼中學議會及津貼小學議會，就研究結果提供寶貴的意見，衷心感謝。

¹ 指由維他奶國際集團有限公司供應的飲品。

² 指由太古可口可樂香港有限公司供應的飲品。

市場 / 行為分析

供應的飲品

7. 飲品的營養價值及教育署發出學校食物部供應食品的指引，影響一些學校向食物部建議應供應的飲品。維他奶公司及太古公司均有提供多種類的飲品³以供選擇，包括有氣及無氣飲品、豆奶、果汁和茶。學校食物部提供的飲品，無論是具營養價值與否，報告內概稱為飲品。

市場結構

8. 本會從業內人士蒐集的資料經分析後，發現飲品市場可分為下列幾個不同的市場：
- 學校食物部的飲品供求市場；
 - 全港飲品的供求市場；及
 - 經營學校食物部的市場。
9. 學校食物部的飲品供求市場和學校食物部經營權的市場，有不同的運作功能，但均受到飲品供應商不同程度的縱向操控⁴，有相連關係。另一方面，本港的學校食物部，學生在校內的飲品需求處於被動地位（尤其是小學方面），有著受制市場的部份特徵。這是由於學生的活動限於學校範圍之內，學生如要在小息時購買飲品，只能在食物部購買。據維他奶公司表示，小學受這因素的影響可能較大，中學生的限制相對較低。當然，無論是中、小學的學生，他們也可以自備飲品，而不光顧學校的食物部。學校食物部的另一重要特點是學生光顧食物部的時間祇限於在短短的小息時段內，而顧客往往就是該校學生，故難以拓展顧客人數，故此，學校食物部的營業額亦因而受到限制。
10. 維他奶公司列舉其加入經營學校食物部市場的理由。其中一個主要原因是讓學生有機會嘗試其產品；此外，亦有其歷史上的源由 — 秉承公司創辦人的使命，以一般可以負擔的價錢為學生提供營養飲品及食物。據該公司稱，經營學校食物部並非一門特別有利可圖的生意，一些食物部甚至有虧損；但公司視這方面的投資為「總體業務」的一部分。
11. 維他奶公司在過去三十年來，開拓了學校食物部飲品及經營服務兩個市場。據該公司稱，他們率先在學校食物部作出投資，為食物部提供飲品雪櫃及保溫櫃，向學生推銷該公司的飲品。現時，一些有利可圖的學校食物部，競爭的情況較熱烈。一些食品供應公司亦開始經營學校食物部。
12. 據本會估計，學校食物部飲品供應市場佔本港整體的飲品供應市場不及 5%⁵。不過，雖然學校食物部飲品供應市場所佔的市場比率不大，但其在拓展市場方

³ 維他奶公司提供有氣及無氣飲品、豆奶、牛奶、蒸餾水、果汁和茶。太古公司亦提供差不多的飲品，包括有氣及無氣飲品、豆奶、牛奶、果汁和茶。

⁴ 現時學校食物部有不同的經營方式，包括由校方自己經營、由個別經營者主理、或由飲品供應商經營。

⁵ 根據政府統計處的數據，一九九七年飲品及汽水製造業的生產值為港幣 3,177,011,000 元。

面的重要性卻不容忽視。首先，投訴的公司覺得這個市場重要，才會向本會提出；其次，就本會看來，若非這個市場有其重要性，維他奶公司當初也不會投資在這個市場上，亦不會持續經營下去。

市場佔有率

13. 本港學校食物部服務供應市場的一大特徵是存在縱向操控。維他奶公司是學校飲品供應市場的一個主要市場參予者，公司的活動包括：飲品製造、批發和零售等。在零售方面，維他奶公司支配(透過直接管理或獨家供應合約方式)頗大比數的學校食物部 — 據業內人士估計，維他奶公司約佔學校食物部服務供應市場的六至七成⁶。
14. 維他奶公司向學校以租約形式⁷取得食物部經營權，其中有些是透過投標取得。維他奶公司會直接管理部份的食物部，或把食物部經營權轉交僱員的親友或退休員工負責管理。
15. 接受本會訪問的人士透露，維他奶公司對學校食物部的影響力，隨著越來越多學校把食物部的經營權以招標方式批出，逐漸減低。而且維他奶公司未必一定成功投得經營權。
16. 另一主要的飲品供應商太古公司，亦與學校食物部達成獨家供應飲品合約。據太古公司稱，有很多是由該公司的離職職員經營。與太古公司有獨家供應合約的食物部數目較維他奶公司少得多(佔小學食物部的 12% — 參閱報告第 2 段)。
17. 其餘學校的食物部，由個別經營者承辦的數目也相當多。經營者包括學校員工或退休員工或員工的親朋戚友等；亦有由食品供應公司經營，如佳美食品服務有限公司和陽光一代。
18. 下表分列本會從九龍城區中小學食物部取得的資料，顯示學校食物部服務供應市場的粗略情況：

中小學食物部經營者

經營者	小學	中學
飲品供應商 / 由飲品供應商推薦的人士	30%	32%
食品服務公司 / 食品供應商	15%	42%
學校員工 / 員工親屬 / 退休員工	55%	26%
合計：	100%	100%

招標程序

19. 學校選用招標程序或邀請經營者報價，一般會要求投標者提供價格(包括食物部租金及主要食品的售價，例如飯盒和飲品)，以供考慮。有時學校會要投標者提

⁶ 本港並無學校食物部的統計數字。假設全港中、小學均設有食物部，則食物部的數目約相等於學校的數目。以一九九八 / 九九年度計，全港學校數目共 1,301 間，小學佔 830 間，中學佔 471 間。

⁷ 一般而言，維他奶公司與學校訂立的食物部經營權為期一年至三年不等，並可以續約。

供其他優惠，例如改善食物部範圍內的設施。有很多學校會重視投標者的經驗，及能否配合校政，作為考慮的重點，租金的標價反而祇屬其次。

入市障礙

20. 學校食物部經營者在提供及保養各樣設備、改善環境衛生方面，需要投入相當多的資金。投入資金的多寡很大部分因校方對經營者的要求而有分別，視乎校方認為經營權的商業價值可為校方換取的利益。
21. 正如前述，維他奶公司在過去三十多年成功取得相當多的學校食物部經營權；透過這種緊密的聯繫，使其產品在學校建立起穩定的供應渠道。加上，教育署的指引及有些學校均著重「營養」飲品的選擇，成為「非營養飲品」供應商的入市障礙。
22. 縱然如此，上述提及的入市障礙未必是解決不來的問題，因為市場上仍有其他經營者、亦有經營者未有獨家供應飲品的安排，有些食物部仍然會售賣其他飲品。

教育署的指引

23. 教育署發出的一般性指引⁸，在學校食物部的經營部分，建議成立「學校食物部委員會」⁹，監督校內食物部的經營，包括食物和飲品的售價和品質等。指引未有規定學校如何選擇食物部經營者，卻建議校方以招標方式選擇校服、體育用品、校徽和校呔供應商。
24. 指引訂明：「如屬可行，學生應有選擇食品牌子的自由。」另一有關膳食安排的指引¹⁰，教育署提出食物部售賣食品的種類。指引建議，學校應考慮食物的營養價值，並應向食物部經營者建議「售賣礦泉水、純味低脂奶，並少賣汽水；及多賣有益的零食，如 豆奶」。教育署似乎只關注食物部的衛生情況，在膳食安排指引有關食物「營養價值」、或一般性指引其中有關食品牌子選擇方面的建議，沒有進行監察，事實上，監察的責任，最終應在校方。
25. 教育署對學校食物部的經營，似乎主要關注衛生和營養，而並非針對食物部的經濟考慮或滿足學生的牌子選擇問題。從而可引伸教育署以衛生和營養為重。不過，教育署對此未有明言。
26. 教育署的指引為學校提供了方向，遵循與否由學校自行斟酌決定。

⁸ 教育署行政通告九五年第三十七號「在資助學校經營買賣業務」。

⁹ 學校食物部委員會由校長委任三至四名教師及由學校的家長教師協會派出一名代表組成。

¹⁰ 教育署行政通告九六年第五十七號「學校的膳食安排」。

市場行為

獨家供應安排

27. 本會未能取得食物部經營者與飲品供應商簽署的獨家供應飲品合約副本。但據了解，合約的內容大致可分為下列兩項：
- 若經營者同意食物部獨家銷售一種牌子的飲品，該飲品供應商保證予經營者較高的折扣率(訂貨量愈多所獲折扣理應愈大)；或
 - 供應商亦會向非獨家供應的食物部經營者供應產品，但給予的折扣優惠不及獨家供應的協定。
28. 維他奶公司向本會表示，若食物部經營者售賣其他牌子飲品，他們不會拒絕供貨。獨家供應安排的高折扣，會吸引經營者，尤其是食物部生意額不大的經營者透過獨家供應安排去取得更多折扣。
29. 據本會的調查，很多小學食物部與供應商有獨家供應安排，中學則沒有小學普遍。回覆本會的小學食物部，幾乎全部均與維他奶公司簽訂獨家供應協定。
30. 與維他奶公司簽訂獨家供應協定的食物部，維他奶公司規定其售賣飲品的種類，並建議最高零售價。一般來說，維他奶公司都會給予學校食物部不同的折扣率，但有獨家供應安排的食物部自然獲得較高折扣和較多支援。供應商對食物部投入的資本、設施多寡影響食物部可得的折扣率。
31. 維他奶公司稱，該公司對食物部的密切監管，確保食物部的服務質素符合校方合約條款規定。維他奶公司表示，有些學校和食物部經營者並不熟悉食物部的運作，視乎需要，他們會提供協助。但他們並沒有絕對權力影響合約條款內容。
32. 太古公司對本會表示，該公司會為接受獨家供應安排的經營者提供折扣。該公司沒有說明安排獨家供應的理由，表示這是行內慣常的做法。
33. 香港飲品製造商會持相同意見，指稱獨家供應安排是分銷商與零售商之間的協議。這種做法在很多國家十分普遍。至於本港整體飲品市場的情況，商會有如下意見：
- 「重要的是，獨家供應安排只佔香港飲品市場的一小部份。大家都會留意到，有極大部份的飲品是透過超級市場和便利店發售，而這些銷售渠道絕對沒有獨家供應安排或障礙.....」(原文為英文)
34. 雖然上列所述的獨家供應安排只是佔全港飲品市場的一小部份，但在飲品售價和產品選擇方面的影響，不容忽視。尤其是學生在小息時的活動範圍有限，如要購買飲品，便只能光顧食物部，他們難往其他店舖購買其他飲品。
35. 本會今次研究並非是以全港飲品市場為目標。假如整體市場存在廣泛的獨家供應問題，本會自然會有不同意見。

訂價行為

36. 據一家經營十三間學校食物部的獨立食品服務公司稱，其食物部的飲品售價一般較其他學校食物部為高，因為公司未能取得與其他有獨家供應安排的優惠折扣。
37. 本會的調查結論大致相同 — 有獨家供應安排的食物部，其飲品選擇有限，但一般來說，售價較沒有獨家供應安排的食物部略低。調查結果顯示，有獨家供應和沒有獨家供應安排的飲品售價差異約在 3%至 12%之間，有獨家供應安排的飲品售價一般較低，似乎學生可以分享到食物部取得的優惠折扣。
38. 兩種較流行飲品在不同零售店(包括非學校食物部)的售價比較如下：

飲品	學校食物部		超級市場	便利店
	獨家供應	非獨家供應		
維他奶 250ml	\$3.59	\$3.82	\$3.45	\$4.00
陽光檸檬茶 250ml	\$3.75	\$3.86	\$3.00*	\$4.00
價錢順次(由最低至最高) 超級市場 < 獨家供應食物部 < 非獨家供應食物部 < 便利店				

註：除在超市發售的陽光飲品外，上述所有數字均以"雪凍"飲品的加權平均價格計算。

* 未經雪凍的陽光檸檬茶價格。超市發售的紙盒庄雪凍飲品較未經雪凍飲品大約貴 4 至 5 角。

39. 以維他奶為例，若把食物部的平均價與同區超級市場和便利店比較，超市的售價最平，學校食物部次之，便利店的價錢最貴。若以學校間的食物部互相比較，有獨家供應安排與沒有獨家供應安排的價錢約相差 6%。
40. 各學校食物部的價格折扣並不劃一。有些情形是，沒有獨家供應安排的食物部也可能與有獨家供應安排所賣的飲品售價分別不大。可能由於這些食物部具較強的議價能力，或在經營規模上能夠達到較大的成本效益。又或者是，在飲品需求方面，食物部經營者需要面對競爭，尤其是中學附近設有士多和超級市場。亦有可能是來自校方管理階層的壓力，認為食物部應把飲品價錢調低。

贊助及捐獻

41. 市場另一種普遍存在的行為是飲品供應商給予學校贊助和捐獻。維他奶公司稱，為滿足學校的期望，公司會「向校方提供獎學金、學生用的傢俬、購買教育器材，以及每年一次或兩次教職員和學生贈飲。」維他奶公司認為，此乃推廣支出並且是必須的¹¹。

¹¹ 本報告未有就贊助及捐獻方面提出任何建議，但本會在早前公佈的「教科書市場經營手法研究報告」(1999 年 3 月)，建議學校應在公開的捐贈冊上列出由供應商餽贈的任何物品或服務，以供公開查閱。

分析獨家供應安排的利與弊

42. 本節就市場蒐集的資料，分析獨家供應安排的利與弊。正如文件第 3 段所述，本報告研究範圍包括：
- 學校飲品供應市場現存的獨家供應安排，有否形成入市障礙，妨礙或阻止其他經營者進入學校飲品市場，甚至整個飲品市場；及
 - 獨家供應安排在飲品零售價、飲品選擇和食物部的服務層面上，對消費者（學生）是否有負面的影響。
43. 本會採用下列的指標，分析獨家供應安排的利弊：
- 評估弊處 — 獨家供應安排會否嚴重妨礙任何一個市場(即：學校食物部的飲品供求市場、香港整體的飲品供求市場、以及學校食物部經營權市場)的競爭能力；又會否影響消費者利益。
 - 評估好處 — 飲品供應商會否從獨家供應安排獲得經濟效益，而這些效益能否讓消費者受惠。包括評估獨家供應帶來的其他公眾利益，會否超出對競爭或消費者所造成的不利影響。

食物部經營者

44. 顯然，沒有獨家供應安排的食物部經營者，不能獲得較優惠的折扣，有獨家供應的經營者有特惠的供貨折扣，也可能獲供應商在經營管理上的協助。不過，有些食物部雖然沒有和個別供應商達成獨家供應安排，所提供的飲品售價，仍能與有獨家供應安排的食物部的飲品售價相若。有意見認為獨家供應安排可能會減低經營者對學生口味變化的敏銳觸覺，局限了經營者的應變能力。這可能也是一些經營者不願與供應商作獨家供應安排的原因之一。此外，亦視乎食物部的規模和所能取得的熱門貨量而定。加入獨家供應行列或置身於協議之外，各自有其經濟效益，視乎學校食物部經營者的生意目的去衡量。例如，一間大公司進入經營學校食物部的市場目的和經濟考慮，與一個單一經營者比較，自會有所不同。總的來說，對一些學校食物部經營者而言，參與獨家供應飲品安排，會獲較大回報和經濟效益。

售價

45. 參與獨家供應安排的食物部經營者，入貨成本較低。若經營者把利益轉給消費者(學生)，消費者才可以享受到較低的零售價。維他奶公司聲稱，他們向參與獨家供應安排的食物部，規定售賣其產品的最高零售價。校方亦可採取措施，確保食物部取價在合理水平。

消費者選擇

46. 獨家供應安排本質上限制了學生在飲品方面的兩個選擇：飲品牌子和飲品種類的選擇。在本港來說，只是牌子方面，因為主要牌子的供應商均能提供多種產品。例如，太古公司和維他奶公司都提供多類飲品，包括有氣及無氣飲品、豆奶、果汁及茶。歸根究底還是看個別供應商可提供的飲品種類選擇。

47. 如前述，教育署的指引要求學校能夠讓學生有選擇食品牌子的自由，指引加上了「如屬可行」的按語。假如食物部的營業額有限，硬性規定需要提供多個牌子產品，經營者便不能享有單供應某牌子產品所帶來的規模經濟。
48. 在這情況下，食物部難以提供較低零售價的飲品。此外，據教育署的「學校膳食安排指引」，敦促學校為學生供應「營養」飲品。據此推論，選擇的自由只是考慮因素之一，仍以學生營養需要為重，雖然這不一定能配合到學生的喜好。

新入市者

49. 有意見認為，學校食物部的飲品供應市場獨家供應的安排，會影響不同牌子飲品在本港整體市場的競爭，這是有可能的。因為，新入市者在宣傳及建立其產品形象方面可能會受到妨礙。不過，這是否構成主要入市障礙，也要視乎多個因素而定。
50. 妨礙競爭的程度是否嚴重，端視有多少間食物部與同一供應商達成獨家供應協議，及協議期限的長短。研究顯示現時獨家供應安排並非祇限於一個供應商，協議期限亦由一年至三年不等。這似乎顯示各供應商之間存有競爭，各自試圖透過獨家供應安排，讓自己的產品在學校食物部的市場佔一席位。因此，新入市者仍應有機會取得類似的獨家供應安排。
51. 此外，新入市者亦可透過其他途徑，建立產品形象，例如，透過廣告推銷及其他市場推廣活動。當然，假如新入市者能夠取得學校食物部獨家供應安排，更加可從中得益。

總結獨家供應安排的利弊

52. 總括來說，獨家供應安排，對新入市者推廣產品可能有些妨礙，但供應商和食物部經營者雙方都會因獨家供應安排得到效益。其實，獨家供應不利競爭的關鍵在於協議期限的長短。
53. 要針對獨家供應安排的問題，應確保市場參與者有機會進入市場。本會認為要達到這個目標，可要求學校定期檢討食物部的經營方式，讓任何飲品供應商均有機會透過直接經營，或與學校食物部的經營者(厘訂有利的供應合約)合作，在學校開拓市場，藉以接觸年青的一代，建立品牌形象。
54. 本會認為，食物部的經營期限每次不宜超過三年。有意見認為期限應該更短，但若標書訂明經營者需要為食物部作出某些投資，例如改善在食物部範圍內的設施、裝置雪櫃和保溫櫃等，便應容許較長的經營期限。若標書只要求經營一般服務，並不牽涉任何資本設施的投資，則一年的經營合約便較為適宜。
55. 至於飲品價錢方面，本會認為，在這有限制性的零售環境下(上學時間學生只能向食物部購買飲品)，有需要加入條款以確保經營者從獨家供應安排得到的經濟效益，可讓消費者(學生)分享。

建議

56. 鑑於獨家供應安排的利弊，本會提出下列各項建議，以保障消費者(學生)利益和促進市場競爭：

入市自由

57. 學校食物部經營的方式，最終是由校方決定。有些學校會自行經營食物部，或出租予獨立的經營者，或由飲品供應商經營。本會認同學校可根據各自不同情況，選擇食物部的經營者。由於學校食物對飲品供應商，及新入市者拓展長遠市場佔有率的重要性(通過在年青一輩建立產品形象)，且學校食物部也是整體市場的一部分。一如整體市場的零售經營，自由和開放競爭的原則，在可能範圍內，也應用於學校食物部。因此本會建議：

建議(1)：教育署宜請各學校管理階層厘訂清晰的食物部經營政策。

建議(2)：學校管理階層對管理食物部的政策應具備透明度，並應照顧到校方和學生的福利。

建議(3)：如學校管理階層決定把食物部交由外界商辦，教育署應予以協助並提供招標的指引。本會認為，教育署應建議學校採用有競爭性的招標(或報價)程序，以選擇食物部經營者和飲品供應。這做法近似學校其他物品和服務的招標(或報價)方式。本會建議承辦合約最長不應超過三年，若經營者只是純粹經營或供應飲品，而毋須要提供其他服務或額外投資，便應以一年為期。

建議(4)：若學校管理階層決定作其他安排，如把食物部交由校工或退休員工經營，宜清楚訂明經營條件。續約與否亦需視乎表現是否滿意，以確保服務質素和售價合理。

產品選擇

58. 獨家供應的安排明顯地限制了學生在產品牌子及產品種類方面的選擇，並且，視乎供應商能夠提供的產品種類，也會影響到營養產品的供應。教育署的指引，認為「如屬可行」，宜為學生提供較多食品牌子的選擇，但又同時建議要為學生提供營養產品。若要求食物部提供所有牌子的營養產品，顯然不切實際，因此，要兼顧學校提倡營養食物的要求，及食物部經營者的經濟考慮。教育署的指引似乎主要並非以經營者的經營為重點，而是關注學生在衛生和營養方面的利益。教育署在厘訂品牌選擇和營養產品的優次取舍方面，並沒有清晰指示，這方面的決定便應由學校處理。

建議(5)：教育署的指引應清楚註明，由校方自行決定有關產品種類和產品牌子的選擇優次。

建議(6)：學校應在標書或報價文件中，清楚註明校方在品牌選擇或營養方面的優次。

售價

59. 獨家供應安排可加增經濟效益、降低成本，貨物的零售價亦相應可以調低。因此，有些學校寧願食物部經營者限定發售某一種牌子飲品。不過，由於可能會限制了競爭，校方應監察售價，以確保經營者(無論是獨立的經營者抑或飲品供應商)不會把售價訂得過高，並且應確保經營者會把從獨家供應安排獲得的經濟效益，與消費者分享。

建議(7)：學校應在提供食物部服務的招標書或報價文件內，加上條款，規定投標人開列在食物部售賣物品的擬定價目表，讓校方參考，確保食物部所售食品價錢合理。中標者在經營期間，以及在合約期滿再欲投標時，校方亦會查察經營者有否遵守這項條款。

建議(8)：若食物部並非經由投標方式承辦，例如只是由學校員工或退休職員作小本經營，學校食物部委員會亦宜對其食物售價有一定形式的監管。

總論

60. 學校食物部與個別供應商安排獨家供應的飲品，祇佔整體飲品市場的一小部分。本會的研究意義在於反映這類經營手法，在有些情況下，會限制市場的競爭能力和妨礙整體市場的經濟效益。這研究卻可令大眾了解，獨家供應的安排，對市場競爭雖有不利之處，但對供應商和零售商雙方卻會產生經濟效益，消委會認為這利益應與消費者分享。這研究個案顯示消費者(學生)因而享受到較廉宜的飲品。另一方面，減少選擇無疑帶來經濟效益，(因為增加選擇無疑會涉及額外成本)，但予消費者足夠選擇也是重要的。如何取得平衡，最終還需要經營者小心考慮。無論是採取哪種經營方式，理應以不妨礙整體市場的經濟效益為前提，所以既不應把新入市者拒諸門外，並讓效率更佳的經營者有機會加入服務市場。這種安排是否有可能體現，也要視乎經營者的目的和營商手法，及相關市場的情況或經濟環境而定。

消費者委員會

一九九九年六月二十八日