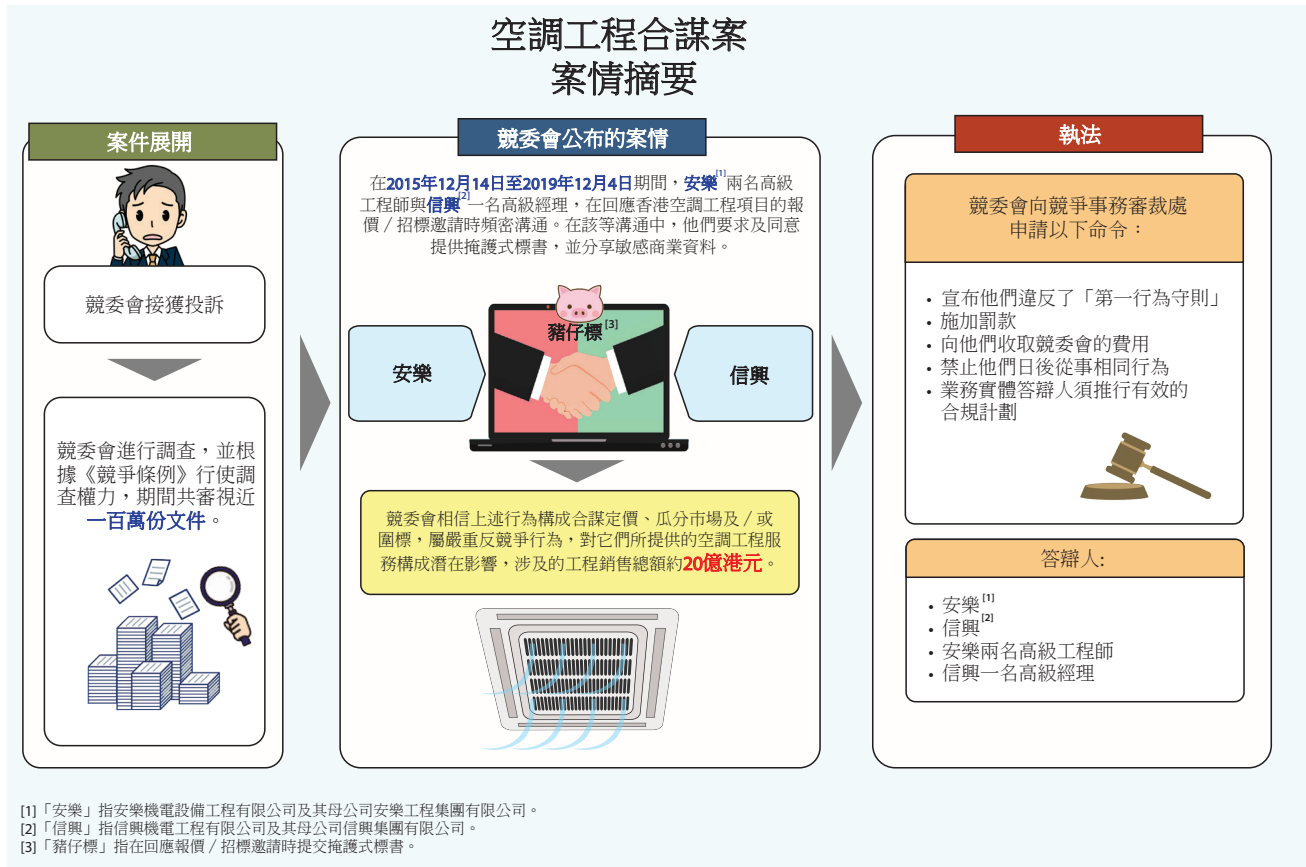


競委會就空調工程合謀案件入稟競爭事務審裁處 Commission files air-conditioning cartel case with Competition Tribunal



2022年6月16日，競委會在競爭事務審裁處（審裁處）向兩間業務實體及三名人士展開法律程序，他們是：

1. 安樂機電設備工程有限公司及安樂工程集團有限公司（安樂）；
2. 信興機電工程有限公司及信興集團有限公司（信興）；及
3. 安樂兩名高級工程師及信興一名高級經理。

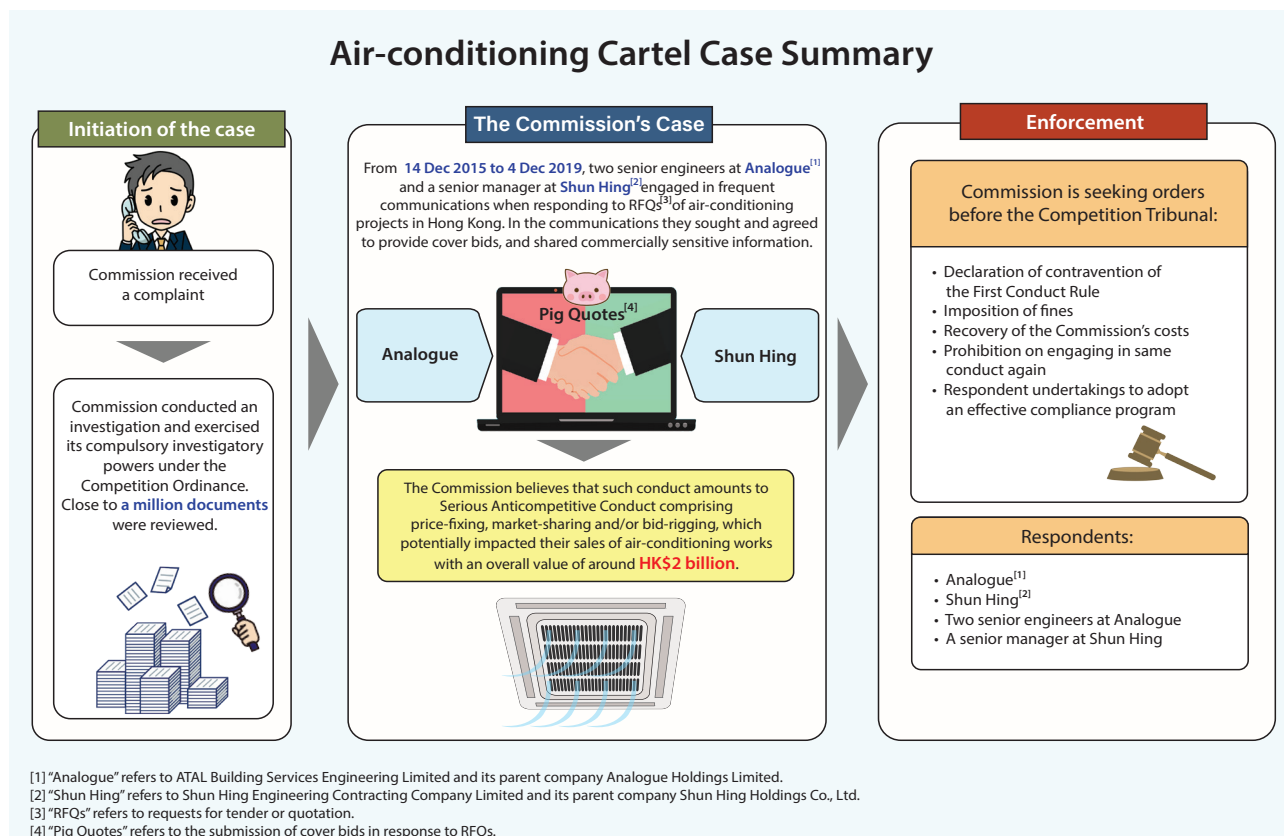
競委會公布的案情指出，安樂及信興在香港提供空調工程時合謀定價、瓜分市場及／或圍標，屬嚴重反競爭行為，違反《競爭條例》（《條例》）的第一行為守則。

競委會的調查發現，安樂兩名高級工程師與信興一名高級經理，在2015年12月14日至2019年12月4日期間，在回應顧客的報價邀請時，透過電郵及電話訊息等渠道頻密溝通。在這些溝通中，他們要求及同意提供掩護式標書、分享本身投標意向的資料，及／或披露意向投標價或其他與投標有關的敏感商業資料，例如工程項目所需的完工日數。

競委會相信，安樂及信興持續從事違例行為超過4年，對它們所提供的各類空調工程服務構成潛在影響，涉及的工程銷售總額約20億港元。

競委會向審裁處申請的命令包括：宣布答辯人違反或牽涉入違反《條例》、向他們施加罰款、收取競委會的費用及要求相關業務實體推行有效的合規計劃。

詳情見新聞稿及案情摘要。



On 16 June 2022, the Commission commenced proceedings in the Competition Tribunal (Tribunal) against two undertakings and three individuals. They were:

1. ATAL Building Services Engineering Limited and Analogue Holdings Limited (Analogue);
2. Shun Hing Engineering Contracting Company Limited and Shun Hing Holdings Co., Ltd. (Shun Hing); and
3. Two senior engineers of Analogue and a senior manager of Shun Hing.

It is the Commission's case that Analogue and Shun Hing engaged in serious anti-competitive conduct in contravention of the First Conduct Rule of the Competition Ordinance (Ordinance) whereby they fixed prices, shared markets and/or rigged bids in relation to the supply of air-conditioning works in Hong Kong.

According to the Commission's investigation, from 14 December 2015 to 4 December 2019, the two senior engineers of Analogue and senior manager of Shun Hing engaged in frequent communications through emails and phone texting when responding to requests for quotation from customers. In the communications they sought and agreed to provide cover bids, shared information about their intentions to bid, and/or disclosed commercially sensitive information on their intended bidding price or other parameters of the bid such as the number of days required to complete the works that were tendered for.

The Commission believes that Analogue and Shun Hing have engaged in continuous infringement over a period of more than four years, which potentially impacted their sales of a wide range of air-conditioning works with an overall value of around HK\$2 billion.

The Commission sought remedies including declarations that the respondents contravened or were involved in the contravention of the Ordinance, pecuniary penalties, orders for the recovery of the Commission's costs and for the undertakings to adopt an effective compliance programme.

View [Press Release](#) and [Case Summary](#).

審裁處就旅遊服務合謀定價案件發出命令

Tribunal granted orders on travel services price-fixing case

2022年7月，審裁處就旅遊服務合謀定價一案的相關訴訟，向兩間公司及一名個別人士發出命令，他們分別是以海景嘉福洲際酒店名義經營的德厚投資有限公司、錦倫旅運有限公司及其董事總經理胡兆英（統稱「和解方」）。

競委會與和解方較早前共同向審裁處申請，以在雙方同意下解決這宗訴訟，審裁處遂按有關申請發出命令。



和解方在該申請中，就2016年5月至2017年5月期間，兩間互為競爭對手的旅遊服務供應商在多間香港酒店內銷售旅遊景點門票及車票時合謀定價的行為，承認違反《條例》下的「第一行為守則」或牽涉入違反該守則，並願意承擔法律責任。

由於錦倫和德厚承認有關行為違法，在調查過程中與競委會合作，並因此節省了公帑開支，所以分別獲扣減25%及20%的建議罰款。扣減後錦倫及德厚分別被判處罰款4,177,000港元及1,600,000港元。審裁處亦頒令取消胡兆英在任何公司出任董事的資格，為期3年。

本案凸顯出業務實體及早按照競委會《為從事合謀行為之業務實體而設的合作及和解政策》與該會合作的好處。根據該政策，競委會與合作的業務實體可達成協議，並以雙方同意的方式解決法律責任及採取補救方法，節省雙方大量時間及費用。

詳情見[新聞稿](#)。

In July 2022, the Tribunal granted orders against Tak How Investment Limited, trading as Intercontinental Grand Stanford Hong Kong, Gray Line Tours of Hong Kong Limited and its managing director Michael Wu Siu-ieng (together, “settling respondents”) in proceedings concerning a price-fixing case in the travel services sector.

The orders were granted based on the joint applications filed with the Tribunal by the Commission and the settling respondents to dispose of the proceedings by consent.

In the applications, the settling respondents admitted liability for their contravention of the First Conduct rule of the Ordinance or involvement in the contravention as regards two competing travel services providers fixing prices of tourist attractions and transportation tickets sold at the premises of various hotels in Hong Kong between May 2016 and May 2017.

The pecuniary penalty that Gray Line and Tak How were ordered to pay was HK\$4,177,000 and HK\$1,600,000 respectively, after receiving a 25% and 20% discount from their respective levels of recommended pecuniary penalty in recognition of their admissions of the infringing conduct, cooperation during the investigation process and the savings to public funds resulting from their cooperation. The Tribunal has also ordered that Wu be disqualified from acting as a director in any company for a period of three years.

This case highlights the benefits for undertakings that decide to cooperate with the Commission under the Commission's Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct at an early stage, whereby the Commission and cooperating undertakings would reach an agreement to dispose of both the liability and relief portions of the proceedings by consent, thus saving both sides significant time and costs.

View [Press Release](#).

上訴庭調高裝修承辦商罰款

Decoration contractors ordered to pay higher pecuniary penalties in Court of Appeal ruling

審裁處早前裁定，五間建築及工程承辦商在本港兩個公共屋邨安達邨及安泰邨進行裝修工程時瓜分市場及合謀定價，並判處罰款。競委會其後就罰款額提出上訴，上訴庭於2022年6月裁定競委會勝訴，相關承辦商須繳款更高罰款。

上訴庭同意競委會的觀點，指不能只是基於該五間公司沒有直接參與反競爭行為，以及瓜分市場及合謀定價的協議是由它們的分判商訂立，而減輕它們的罰款。裁決亦確認除了直接參與反競爭行為的各方，競委會亦可向與他們組成同一業務實體的其他公司或人士追究全額罰款。

競委會提醒企業的母公司或作出分判安排的總承辦商必須清楚了解，如與它們構成同一業務實體的附屬公司、關聯公司或分判商從事反競爭行為，它們本身有何潛在法律責任。它們需確保所有集團成員或旗下分判商遵守競爭法，並實施適切的合規措施。

詳情見[新聞稿](#)。



In June 2022, the Court of Appeal ruled in favour of the Commission in relation to its appeals against pecuniary penalties imposed by the Competition Tribunal on five construction and engineering contractor companies concerning market sharing and price fixing in renovations projects at two public housing estates in Hong Kong, namely On Tat Estate and On Tai Estate.

The Court of Appeal agreed with the Commission's case that the five companies should not be given a lower pecuniary penalty solely because it was their subcontractors who had entered into the market sharing and price fixing agreements and that they had no direct participation in the cartel. The judgment also affirmed that the Commission may proceed against entities comprised in an undertaking for the full unmitigated penalty, in addition to parties that directly participated in the contravention themselves.

The Commission reminds parent companies in corporate groups and head-contractors in subcontracting arrangements as members of the same undertaking to be aware of their potential legal liabilities should their subsidiaries, related companies or subcontractors carry out anti-competitive activities. They should ensure all members of their group or subcontractors should abide by the Ordinance and have appropriate compliance measures in place.

View [Press Release](#).

向立法會報告 2021-22 年度的主要工作進度 Highlights of Commission's work in 2021/2022 reported at Legislative Council



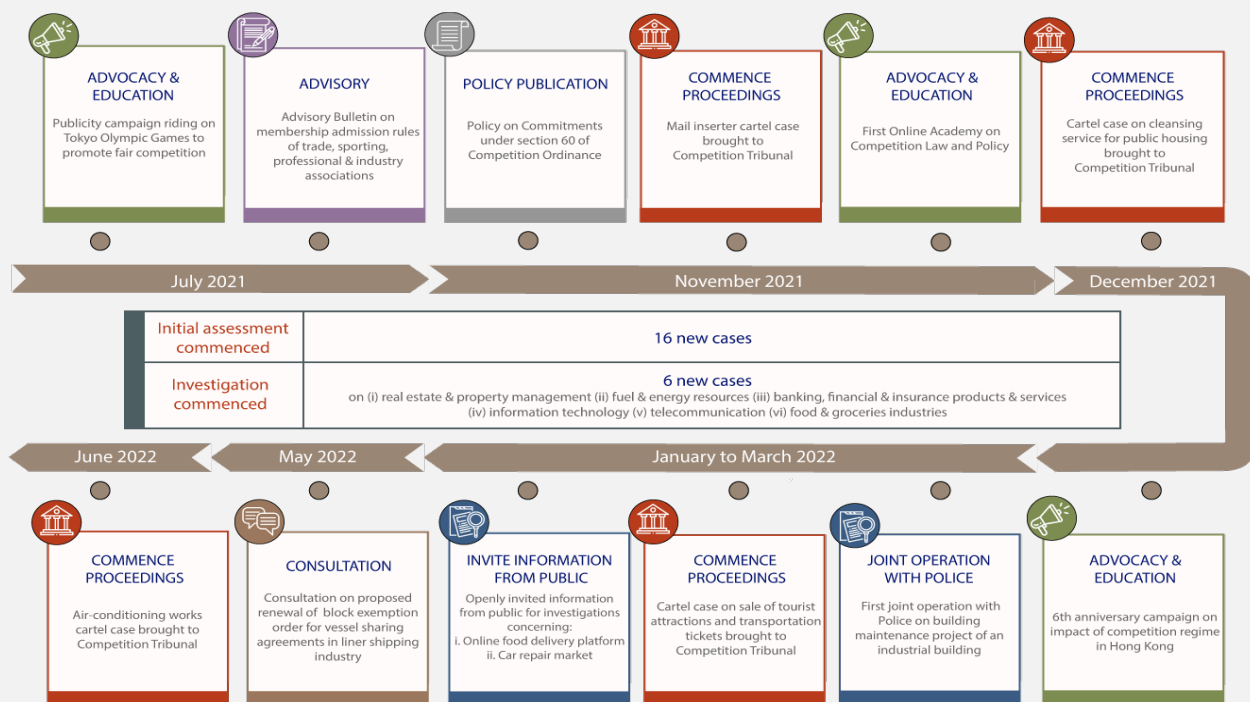
競委會在2022年7月的立法會經濟發展事務委員會會議上報告工作進度。過去一年，縱然面對新冠病毒疫情的挑戰，競委會在不同的工作範疇仍立下多個里程碑。

年內，競委會就四宗新的合謀案件入稟審裁處，涉及共11間業務實體及7名人士，他們分別涉嫌在入信機銷售、公共屋邨清潔服務、旅遊景點門票及車票銷售，以及冷氣工程項目中，從事嚴重反競爭行為。競委會全面運作不足7年，已就11宗案件入稟審裁處，而在審裁處已作出裁決的五宗案件中，競委會全部獲判勝訴。

過去一年，競委會亦採用了新的調查和執法策略，包括首次就兩宗關於網上外賣平台及私家車保用條款的調查，公開邀請業界及公眾人士提供資料。

此外，競委會亦首次與香港警務處轄下有組織罪案及三合會調查科採取聯合行動，搜查一間物業管理公司及多個承建商。他們涉嫌於一大廈維修工程的招標中，從事合謀行為及其他刑事罪行。

詳情見[工作報告](#)。



As reported at the Legislative Council Panel on Economic Development Meeting in July 2022, the Commission has managed to achieve a number of milestones across different aspects of its work over the past year despite the challenges posed by the COVID-19 pandemic.

During the year, the Commission brought four new cartel cases before the Competition Tribunal against a total of 11 undertakings and 7 individuals for suspected serious anti-competitive conducts concerning the sale of mail inserters, procurement of cleaning services for public housing estates, the sale of tickets tourist attractions and transportation tickets, and air-conditioning works respectively. In less than 7 years of full operation, the Commission has brought a total of 11 cases before the Tribunal, and was successful in all five cases already ruled by the Tribunal so far.

The Commission also adopted new investigation and enforcement strategies over the past year. For the first time, the Commission openly invited information from industry players and members of the public for two ongoing investigations concerning online food delivery platforms and passenger car warranty terms and conditions.

It also conducted its first joint enforcement operation with the Organized Crime and Triad Bureau of the Hong Kong Police against a property management company and a number of contractors regarding a suspected cartel and related criminal activities in a building maintenance project tender exercise.

View [Report](#).

延續班輪業船舶共用協議的集體豁免命令 Block exemption order renewed for vessel sharing agreements in liner shipping industry

2022年7月，競委會將定期班輪公司之間船舶共用協議的集體豁免命令（該命令）續期4年，命令有效期至2026年8月。



船舶共用協議是航運公司之間就一些營運安排所達成的協議，涵蓋的活動包括交換船舶箱位、協調船期及共同使用港口碼頭等。競委會的評估顯示，這類協議有助提升整體經濟效率，因此於2017年8月發出命令，宣布在符合相關條件*的情況下，一般根據船舶共用協議所進行的活動，可獲豁免於《條例》第一行為守則的適用範圍之外。

過去一年，競委會就該命令作出檢討。在完成檢討後，競委會於2022年5月發布將該命令續期的建議，並根據《條例》第 20條邀請各界人士作出申述。競委會的結論是，船舶共用協議所涵蓋的相關活動，仍然符合經濟效率豁免的條件，延續該命令為可取及有效的做法。

詳情見[新聞稿](#)。

In July 2022, the Commission renewed the block exemption order (Order) for vessel sharing agreements (VSAs) between liner shipping companies for a further four years until August 2026.

VSAs are agreements between shipping lines on certain operational arrangements, covering activities such as exchange of slots on each other's vessels, coordination of sailing timetables and use of port terminals. The Commission issued the Order in August 2017 in light of its assessment that this category of liner shipping agreement enhances overall economic efficiency. The Order declares that activities usually undertaken pursuant to VSAs are excluded from the application of the First Conduct Rule in the Ordinance, subject to certain conditions*.

Following a review of the Order over the past year, the Commission published a proposal to renew the Order in May 2022 and sought representations from interested parties in accordance with section 20 of the Ordinance. The Commission has come to the conclusion that relevant activities of the VSAs continue to meet the requirements of the efficiency exclusion, and that continuation of the Order would be merited and effective.

View [Press Release](#).

* 詳見於2017年8月8日發布的[新聞稿](#)。

See [press release](#) dated 8 August 2017.

競委會「市場競爭 101」短片系列連奪兩個獎項 Commission garners two awards with “Competition 101” video series

競委會製作的「市場競爭101」短片系列奪得兩個國際獎項，包括由Mercomm, Inc.舉辦的Questar Awards「企業：教育及資訊組別」銀獎，以及由美國互動及視覺藝術學院舉辦的Communicator Awards「網上短片－網絡系列組別」優異獎。



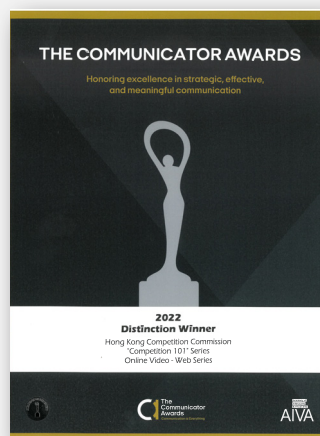
該短片系列由房育輝教授主持，以輕鬆活潑、深入淺出的手法加深公眾對競爭法的了解。一連四集的短片透過日常生活例子和有趣動畫，解釋市場結構、壟斷市場、市場定義和合謀行為等經濟學概念。

[按此](#)觀看短片系列。

The Commission has snatched two awards with its “Competition 101” video series, including Silver in the “Corporations – Educational & Informative” category of the Questar Awards organized by Mercomm, Inc., and an Award of Distinction in “Online Video – Web Series” category of the Communicator Awards organized by Academy of Interactive & Visual Arts.

Presented by Professor Fong Yuk-fai, the video series seeks to promote public understanding of the competition law in a light-hearted and easy-to-understand manner. It comprises four episodes, in which real-life examples and animation are used to explain the economic concepts of market structure, monopoly, market definition and collusion.

Watch the video series [HERE](#)



本地及國際倡導工作 疫情期間繼續進行 Local and international outreach continues amidst pandemic

接觸本地公眾

2022年第二季，競委會舉辦了網上講座及兩場學校工作坊，向商界、公眾人士及學生介紹《條例》。競委會亦參加了11場網上及現場活動，接觸不同持份者，其中包括房屋署、香港旅遊業議會、英國特許房屋經理學會（亞太分會）及英國特許建造學會（香港分會）。

下一場《競爭條例》網上講座（以廣東話進行）將於2022年10月11日舉行，請[按此](#)登記。



國際交流

競委會以國際競爭規管網絡「競爭倡議工作小組」聯席主席的身份，為4月在柏林舉行的國際競爭規管網絡年度大會，協辦了4場專題討論。

超過350名來自80多個司法管轄區的代表親身出席是次會議，另有1,600人以網上形式參與，包括多個競爭事務當局及國際機構的代表，以及非政府顧問。



Local outreach

In the second quarter of 2022, the Commission organised a webinar and two school workshops, introducing the Ordinance to businesses, members of the public and students. Representatives of the Commission also participated in 11 engagement events, both online and in-person, targeting different stakeholders including Housing

Department, Travel Industry Council of Hong Kong, Chartered Institute of Housing (Asian Pacific Branch), and Chartered Institute of Building (Hong Kong Branch).

The next webinar on the Ordinance in Cantonese will be held on 11 October 2022, click [HERE](#) to register.

International activity

As the co-chair of International Competition Network's (ICN) Advocacy Working Group, the Commission co-organized 4 panel discussions in April for the ICN Annual Conference held in Berlin.

Over 350 representatives from more than 80 jurisdictions attended the conference in person while another 1,600 participated online including representatives from competition authorities and international organisations, as well as non-government advisors.

競委會與香港電台聯合製作實況劇

Commission co-produces its first-ever docudrama with RTHK

為進一步加深公眾對《條例》的了解，及提高不同行業對潛在競爭風險的意識，競委會正與香港電台聯合製作首套一連五集的電視實況劇。該劇由陸駿光、余香凝、黃定謙及林千渟主演，內容改編自競委會在全面運作最初幾年所處理的首批競爭法個案。

劇集將於9月底在港台電視31播出，萬勿錯過！



To further strengthen public understanding of the Ordinance and raise awareness of potential competition risks in different sectors, the Commission is co-producing its first ever five-episode docudrama TV series with RTHK. Starring Alan Luk Chun-kwong, Jennifer Yu Heung-ying, Himmy Wong Ting-him and Angel Lam Chin-ting, the series is an adaptation of the first batch of competition law cases handled by the Commission during its first few years.

The series will be broadcast on RTHK 31 starting late September. Stay tuned!