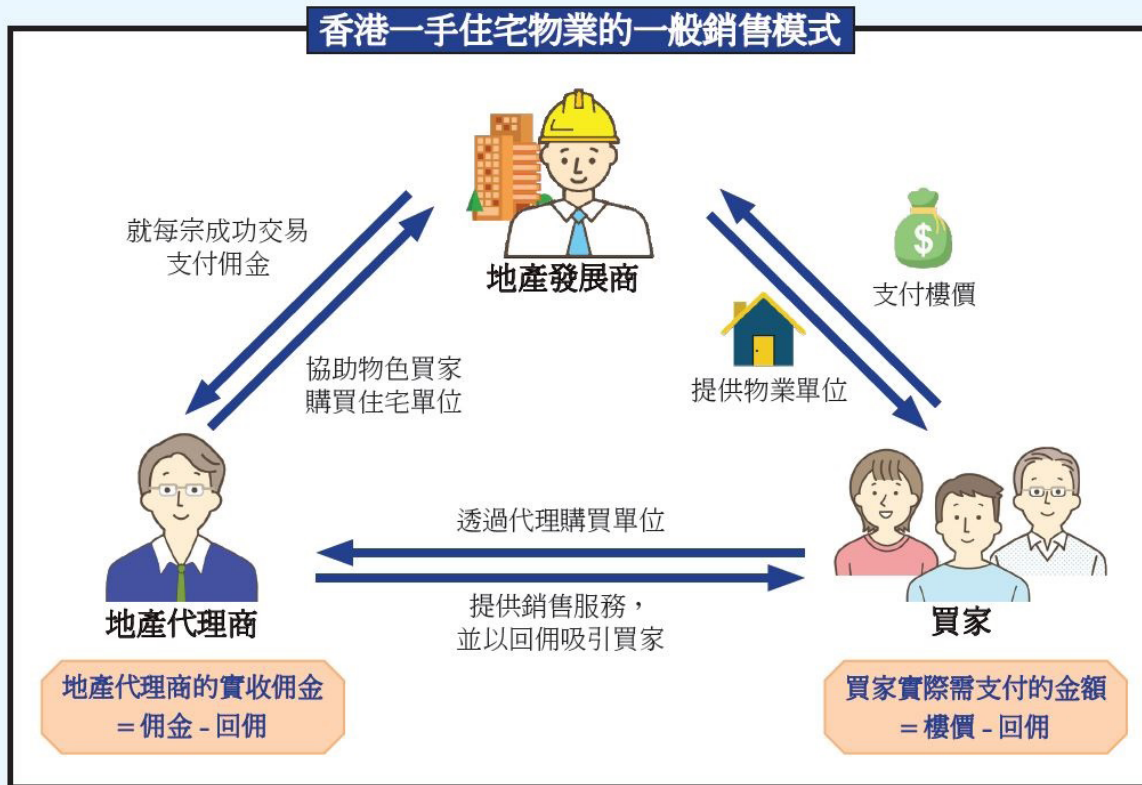


## 競委會就地產代理商合謀定價案件入稟審裁處 Estate agencies' price-fixing case filed in Tribunal



2023年11月14日，競委會入稟競爭事務審裁處（審裁處），向一間業務實體及五名人士展開法律程序。他們是：

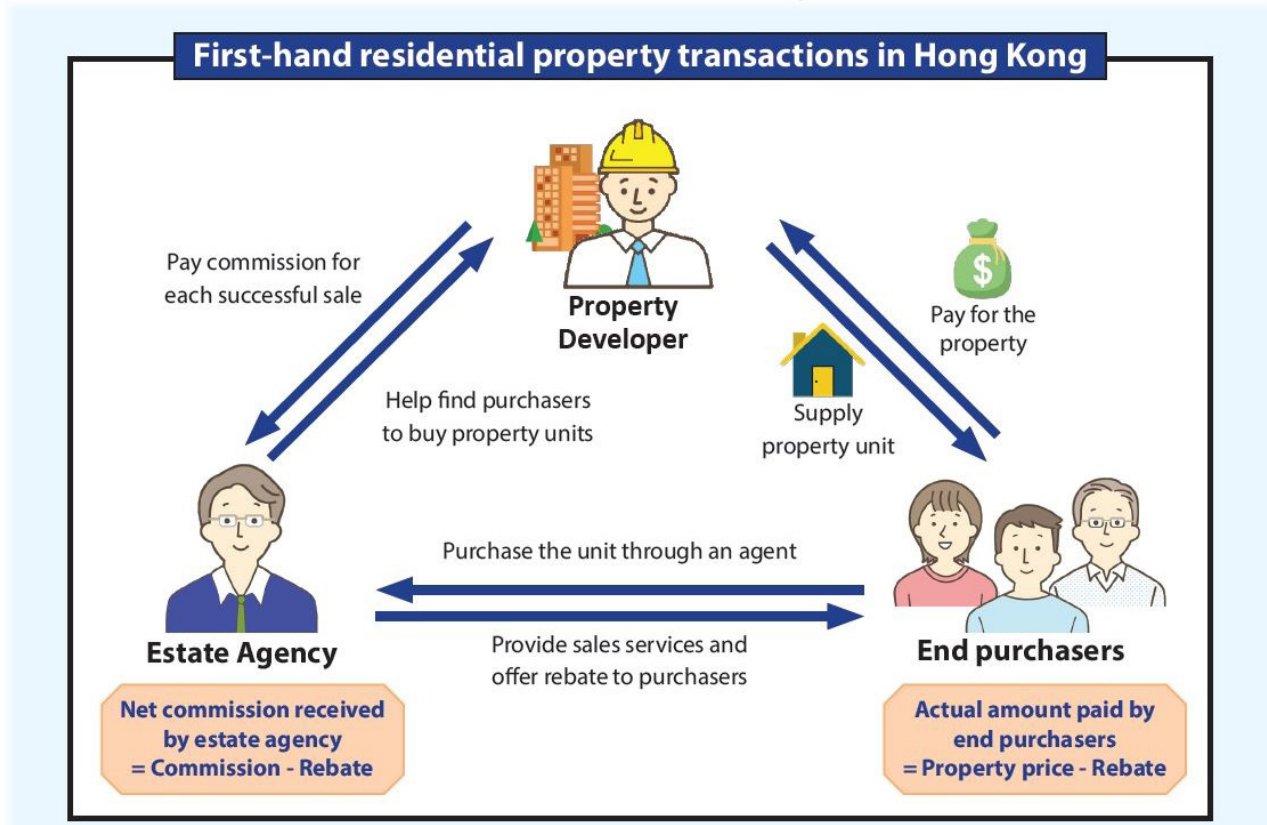
- 美聯物業代理有限公司、香港置業（地產代理）有限公司及美聯集團有限公司（統稱「美聯」）；及
- 五名美聯高層

競委會公布的案情指出，2022年12月至2023年3月期間，美聯與其競爭對手——中原地產代理有限公司及利嘉閣地產有限公司（統稱「中原」），協議訂定在銷售香港一手住宅物業時，必須收取最少百分之二的實收佣金，有關做法等同固定或限制了前線代理可向物業買家提供的最高佣金回贈（俗稱回佣）水平。競委會相信，有關安排構成屬嚴重反競爭行為的合謀定價，及／或交換影響競爭的敏感資料，違反《競爭條例》（《條例》）下的「第一行為守則」。

在調查過程中，中原根據競委會的《為從事合謀行為之業務實體而設的寬待政策》申請寬待，全面與競委會合作，以換取競委會不對中原及其高級人員或僱員展開任何法律行動。競委會其後與中原簽訂了寬待協議。

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》、施加罰款、發出取消董事資格令、支付競委會的費用，以及涉案業務實體須推行有效的合規計劃。

詳情見[新聞稿](#)、[案情摘要](#)及[常見問題](#)。



On 14 November 2023, the Commission commenced proceedings in the Competition Tribunal (Tribunal) against one undertaking and five individuals. They were:

- Midland Realty International Limited, Hong Kong Property Services (Agency) Limited and Midland Holdings Limited (collectively "Midland"); and
- Five individuals from the senior management of Midland.

It is the Commission's case that, between December 2022 and March 2023, Midland and its competitors Centaline Property Agency Limited and Ricacorp Properties Limited (collectively "Centaline") agreed to fix the minimum net commission rate for the sale of first-hand residential properties in Hong Kong at 2%, which effectively fixes or restricts the maximum level of rebate their frontline agents could offer to the purchasers of such properties. The Commission believes that such arrangements amount to serious anticompetitive conduct in the form of price fixing, and/or exchange of competitively sensitive information, in contravention of the First Conduct Rule of the Competition Ordinance (Ordinance).

In the course of the Commission's investigation, Centaline submitted a leniency application under the Commission's *Leniency Policy for Undertakings Engaged in Cartel Conduct* to fully cooperate with the Commission in exchange for the Commission not to take any legal proceedings against Centaline and its officers or employees. A leniency agreement was subsequently entered into between Centaline and the Commission.

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

View [Press Release](#), [Case Summary](#) and [Questions & Answers](#).



## 競委會結束調查兩間大型航空公司建議的商務合作協議 Commission concludes investigation into proposed Joint Business Agreement between two major airlines

競委會結束對國泰航空有限公司（國泰）及馬來西亞國際航空公司（馬航）擬達成商務合作協議的調查，兩間航空公司此前已通知競委會，決定不會落實該協議。

該兩間航空公司早前建議，就所有由國泰及馬航營運、往返香港與馬來西亞的定期客運航班，訂立共享航班商務合作協議（該協議）。在共享航班 (metal-neutral) 的安排下，不論航班實際上是由哪一間航空公司營運，航空公司之間都會攤分該航線的收益及成本。

在調查期間，競委會的初步評估認為，往來香港與馬來西亞的航空客運服務市場高度集中，兩間航空公司的市場佔有率相當高，亦是彼此間最接近的競爭對手。當該協議落實後，所產生的實際效果，將等同兩間航空公司以單一實體經營這些航線，它們之間的競爭有可能因而完全消除。此外，有關市場似乎存在著進入市場及擴充業務的障礙，而其他現存的航空公司亦未必能對該兩間航空公司構成足夠的競爭制約。

競委會關注該協議落實後可能會降低兩間航空公司減價及／或改善服務質素的誘因，從而影響往來香港與馬來西亞的乘客。由於兩間航空公司已確認不會落實該協議，競委會因此決定結束相關調查。

詳情見[新聞稿](#)。

The Commission closed the investigation into a proposed joint business agreement between Cathay Pacific Airways Limited (CX) and Malaysia Airlines Berhad (MH) (collectively "Parties"), after the Parties notified the Commission they had decided not to proceed with the proposed agreement.

The Parties had previously proposed to enter into a metal-neutral joint business agreement in respect of all scheduled air passenger services between Hong Kong and Malaysia they operate (Proposed JBA). A metal-neutral partnership essentially involves revenue and costs sharing between the airlines on a given route regardless of which airline is operating the actual flight.



The Commission's preliminary assessment during the investigation indicated that the markets for air passenger services between Hong Kong and Malaysia are highly concentrated, with the Parties having significant market shares and being each other's closest competitor. Implementing the Proposed JBA would likely eliminate all competition between the Parties as they would effectively operate as a single entity on the

routes in question. There also appears to be barriers to market entry and expansion, and the competitive constraints exerted by existing competing airlines on the Parties may be insufficient.

Therefore, should the Proposed JBA be entered into, the Commission is concerned that it would likely reduce the incentives for the Parties to offer lower prices and/or to improve the quality of services, which would affect passengers travelling between Hong Kong and Malaysia.

As the Parties confirmed that they will no longer proceed with the Proposed JBA, the Commission has decided to close the investigation.

View [Press Release](#).

## 競委會繼續與內地及國際競爭法機構緊密聯繫 Commission continues to foster strong ties with Mainland and international counterparts

2023年9月，競委會受國家市場監督管理總局（國家反壟斷局）邀請，參加在南京舉行的第10屆中國公平競爭政策國際論壇暨全國公平競爭大會，主席陳家殷先生在專題論壇上，就「競爭合規與企業高質量發展」發表演講，介紹競委會在促進香港以至粵港澳大灣區企業合規的工作。



2023年10月，在主席陳家殷先生及行政總裁畢仲明先生率領下，競委會代表及其四名非政府顧問，參加了在西班牙巴塞隆拿舉行的2023年國際競爭規管網絡（ICN）周年大會，並就多個競爭議題，從香港及亞洲的角度分享觀點。這個全球最具規模的競爭法會議，匯聚了來自超過100個司法管轄區的競爭法機構及業界人士。在會上的專題小組，陳家殷先生與來自新加坡、匈牙利及美國的知名講者，討論競爭法機構如何訂立其執法及倡導工作的重點。競委會兩名非政府顧問高善和先生及Adelaide Luke女士，亦分別就數碼市場衍生的反壟斷問題及國際執法合作發言。

2023年12月，競委會派代表團出席在巴黎舉行的經濟合作與發展組織（OECD）全球競爭論壇，主席陳家殷先生在一場圓桌會議中，就亞太區競爭法執法及政策發展發言。行政總監（行動）郭柏聰先生在「寬待以外的選擇」環節中，擔任開場講者，

討論競委會如何以創新的手法，提高公眾對競爭法的認知，並分享其他偵測合謀行為的工具。此外，競委會委員陳家強教授亦主持了一場專題小組討論，探討在合謀行為執法中，如何採用經濟證據，期間，顧問及國際事務部主管 Tim Ker 先生則講述競委會處理合謀行為時採用經濟證據的經驗。

In September 2023, at the invitation of the State Administration for Market Regulation (the National Anti-monopoly Bureau), the Commission participated in the 10th International Forum on Fair Competition Policy & National Fair Competition Conference of China in Nanjing, where its Chairman Mr. Samuel Chan contributed to the thematic discussion on “*Competition compliance and high-quality enterprise development*”. During the discussion, Mr. Chan shared the Commission’s initiatives to enhance competition law compliance among businesses in Hong Kong and the Greater Bay Area.

In October 2023, led by Chairman Mr. Chan and Chief Executive Officer Mr. Rasul Butt, the Commission and its four Non-Governmental Advisers (NGA) took part in the 2023 Annual Conference of the International Competition Network (ICN) in Barcelona, Spain, sharing Hong Kong’s and Asia’s perspectives on competition issues at this largest global forum which gathered competition agencies and practitioners from more than 100 jurisdictions. At the Conference, Mr. Chan partook in a discussion about how competition agencies set organizational priorities of their enforcement and advocacy work, alongside other esteemed panellists from Singapore, Hungary and the United States. Two of the Commission’s NGAs, Mr. Stephen Crosswell and Ms. Adelaide Luke also spoke on antitrust issues arising from digital markets and international enforcement cooperation respectively.



In December 2023, the Commission sent a delegation to the Organisation for Economic Cooperation and Development (OECD) Global Forum on Competition in Paris, where Chairman Mr. Chan took part in a roundtable discussion on the priorities for competition enforcement and policy development in the Asia-Pacific region. Executive Director of



Operations Mr. Patrick Kwok was the opening speaker for the session “*Alternatives to Leniency*” where he discussed the Commission’s innovative approaches to public awareness and other tools used to detect cartels. In addition, Commission Member Prof. KC Chan moderated a panel on the use of economic evidence in cartel enforcement. In that session, Mr. Tim Ker, Head of Advisory and International Affairs, provided an intervention on the Commission’s experience in using economic evidence in a cartel context.

## 競委會參加「創業日」展覽 協助企業了解《競爭條例》 Commission participates in Entrepreneur Day to promote business understanding of Competition Ordinance

為持續接觸本地商界，特別是中小企及初創公司，競委會於12月7至8日參加了香港貿易發展局舉辦的「創業日2023」展覽。

競委會的攤位設有資訊豐富的展板，講解《條例》的重點，同時亦設有互動遊戲，加深參觀者對《條例》的了解。展覽期間，亦播放了香港首套競爭法個案實況劇《競爭之合謀有罪》，並派發中小企實用指南及不同主題的小冊子。攤位吸引了不少有興趣深入了解競委會工作的人士，參觀人數超過1,500人。

### 其他活動

期內，競委會舉辦了一場大型網上講座，介紹《條例》及競委會的工作。是次講座有超過1,000名商界代表及公眾人士參與，出席人數創下新高。競委會亦為約300名法律界人士舉辦了一場以「操控轉售價格」為主題的網上講座，並參加了其他18場活動，接觸不同持分者。

下一場《競爭條例》網上講座（以廣東話進行）將於2024年1月16日舉行，請[按此](#)登記。

The Commission participated in the Entrepreneur Day 2023 organised by the Hong Kong Trade Development Council on 7 – 8 December as part of its ongoing advocacy efforts to reach out to businesses, in particular SMEs and start-ups, in Hong Kong.

The Commission's booth featured informative panels highlighting key elements of the Ordinance and an interactive game to reinforce the visitors' understanding of the Ordinance. It also showcased Hong Kong's first TV docudrama on competition law cases, "COMPETE: Cartel Hunters". Brochures on different competition law topics and a practical toolkit for SMEs were also distributed during the exhibition. The booth has attracted over 1,500 visitors who expressed great interest in knowing more about the Commission's work.



### Other engagements

During the period, the Commission hosted a webinar to promote the Ordinance and the Commission's work. A record-high of over 1,000 representatives from businesses and members of the public had attended the event. The Commission also organized a webinar on resale price maintenance (RPM) with about 300 legal practitioners as attendees and participated in 18 other engagement events targeting different stakeholders in Hong Kong.

The next webinar on the Ordinance (in Cantonese) will be held on **16 January 2024**. Click [HERE](#) to register.

## 電視實況劇《合謀有罪》榮獲三大國際獎項 TV docudrama *Cartel Hunters* scoops three international awards

競委會憑香港首套競爭法個案實況劇《競爭之合謀有罪》勇奪三大國際倡導獎項。

| 獎項   | 頒發機構                             |
|--|----------------------------------|
| Questar Awards 2023<br>「非牟利機構：公眾意識組別」 <b>金獎</b>  | Questar Awards 2023              |
| Communicator Awards 2023<br>「影片及錄像 - 非牟利組別」 <b>大獎</b>                                      | 美國互動及視覺藝術學院                      |
| Accolade Global Film Competition<br>「劇集／連續劇組別」 <b>特別表揚傑出影片</b><br>「教育／指導／培訓組別」 <b>傑出影片</b> | Accolade Global Film Competition |

這套合共五集、與香港電台聯合製作的實況劇，標誌著競委會在接觸公眾方面的一個重要里程碑，同時讓大眾更深入了解《條例》與他們的切身關係。由陸駿光、余香凝、黃定謙及林千渟飾演的競委會調查員，於劇中調查四宗合謀案件，內容改編自《條例》2015年12月全面生效後，競委會所處理的首批真實案件。

[收看得獎劇集。](#)



The Commission has won three international advocacy awards with Hong Kong first docudrama series on competition law cases, “COMPETE: Cartel Hunters”.

| Awards received   | Awarded by                           |
|---|--------------------------------------|
| Questar Awards 2023<br><b>Gold</b> in the category of “Non-profit organisations: Public Awareness”  | Questar Awards 2023                  |
| Communicator Awards 2023<br><b>Award of Excellence</b> in the category of “Film & Video – Non-profit”   | Academy of Interactive & Visual Arts |
| Accolade Global Film Competition<br><b>Award of Excellence Special Mention</b> in the category of “Drama Program/Series”<br><b>Award of Excellence</b> in the category of “Educational/ Instructional/Training” | Accolade Global Film Competition     |

Co-produced with RTHK, this five-episode series represents a key milestone in the Commission's effort in reaching out to the general public and deepening their understanding of how the law is relevant to them. Starring Alan Luk Chun-kwong, Jennifer Yu Heung-ying, Himmy Wong Ting-him and Angel Lam Chin-ting as the Commission's investigators, the series takes the audience through the investigation of four cartel cases which were adapted from the first batch of real competition law cases handled by the Commission since the Ordinance came into full effect in December 2015.

[View](#) award-winning drama.



電話 Tel: 3462 2118 | 傳真 Fax: 2522 4997 | 電郵 Email: [enquiry@compcomm.hk](mailto:enquiry@compcomm.hk)

地址：香港黃竹坑道 8 號 19 樓 South Island Place

Address: 19/F, South Island Place, 8 Wong Chuk Hang Road, Hong Kong

網站 Website: [www.compcomm.hk](http://www.compcomm.hk)