

## **Questions and Answers**

### **1. How was the case discovered?**

The case was discovered as a result of a complaint received in 2018.

### **2. How did the cartel conduct take place?**

In or around April and May 2018, Neopost arranged and attended meetings with Toppan HK and Smartech, which are resellers of Neopost brand inserters in Hong Kong. At these meetings, the three undertakings reached an agreement whereby Toppan HK and Smartech would not actively compete for each other's customers over the sale of Neopost inserters. Toppan HK would allow Smartech to win a request for quotation by quoting a price higher than Smartech if the request came from a Smartech customer, while Smartech would do the same when dealing with a request from a Toppan HK customer. They also agreed that the winning party would source the Neopost inserter from the losing party, instead of purchasing directly from Neopost, to ensure they both would obtain business.

In order to implement this agreement, Toppan HK and Smartech also exchanged competitively sensitive information, including intended prices and models of inserters, before submitting quotations or bids to potential customers.

The Commission has reasonable cause to believe that the above-mentioned conduct amounts to serious anti-competitive conduct in the form of price-fixing, market-sharing, and bid-rigging, in contravention of the First Conduct Rule of the Competition Ordinance.

### **3. Who were the victims of the cartel?**

The victims of the cartel were customers of inserters. These comprise many entities and businesses that use inserters to send large volumes of mail, such as government departments, insurance companies and banks.

### **4. What is Cooperation Policy and how do businesses benefit from it?**

Under the Commission's [Cooperation Policy](#), undertakings engaged in cartels may choose to cooperate with the Commission in its investigations and admit their wrongdoings. The Commission may in return offer a discount of up to 50% off the pecuniary penalty it would otherwise recommend to the Competition Tribunal. The Commission may also agree not to bring proceedings against individuals involved, such as employees or directors of the cooperating undertakings, if they fully cooperate with the Commission.

### **5. How does the Commission determine the level of pecuniary penalty recommended to the Competition Tribunal?**

When formulating a recommendation to the Tribunal on the level of pecuniary penalty, the Commission will generally apply the methodology set out in the Commission's Policy on

Recommended Pecuniary Penalties<sup>1</sup> and take into account the severity of the contravention and the need to achieve effective deterrence. Discounts will be given to those who cooperate with the Commission.

While the Commission will recommend an amount of pecuniary penalty it considers appropriate, it is ultimately for the Tribunal to determine the penalty amount to be imposed.

**6. How does the Commission determine the discount rate of recommended pecuniary penalty for undertakings which cooperate?**

In determining the discount rate, the Commission will generally consider the order in which the undertakings come forward as well as the timing, nature, value and extent of the cooperation provided.

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<sup>1</sup> See the Commission's [Policy on Recommended Pecuniary Penalties](#).