



競爭快訊

Competition Matters

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競爭事務委員會
COMPETITION
COMMISSION

行政總裁的話 Message from CEO

競委會過去 4 個月，各方面的工作均取得良好進展，尤其在提供政策意見方面。我們在 4 月發表了一份意見公告，協助人力資源界從業員、僱主及僱員了解在《競爭條例》下，與僱傭有關的競爭風險。競委會亦進一步接觸公營界別，在 5 月出版了一份簡便指南，讓公職人員加深了解《條例》，協助他們在日常工作中加強偵測反競爭行為，其後我們更為政府採購人員舉辦了相關講座。9 月初，我們將為相關政府部門、公營機構及執法部門人員提供由國際競爭法專家主講的培訓講座。

倡導工作方面，競委會舉辦的大專生社交媒體挑戰賽經已圓滿結束，該活動在不同網上平台的總瀏覽次數超過 160 萬。參賽的年輕人展現出非凡的才華和創意，尤其是勝出隊伍就「瓜分市場」所創作的有趣比喻，讓我留下深刻印象。此外，競委會的倡導工作亦再獲殊榮，我們的「瓜分市場」教育短片及電視廣告共贏得 5 個國際獎項。國際交流方面，競委會出席了反壟斷會議和工作坊，持續與其他司法管轄區建立雙邊關係。

競委會現正密鑼緊鼓地籌備其首個國際會議－「香港競爭集思匯 2018」。是次大會將於 11 月 1 至 2 日舉行，屆時一眾傑出講者，將就重要及新興的競爭議題展開具啟發性的討論。是次會議於競委會而言是一個重要的里程碑，而對於有興趣了解競爭法在本地及國際間之最新發展的人士而言，亦是一場不容錯過的盛事，我衷心期待你的參與。

The past four months have seen good progress in many aspects of the Competition Commission's work with a particular focus on its advisory function. In April, the Commission published a bulletin to advise human resources practitioners, employers and employees on potential risks under the Competition Ordinance (Ordinance) related to the labour market. The Commission also stepped up its efforts to engage the public sector in May by publishing a handy guide to understanding the Ordinance and strengthening detection of anti-competitive practices to assist public officers in their work. This was followed by a seminar on the same subject for the government's procurement officers. A series of targeted training sessions on competition law and policy led by international competition law experts for relevant officials in Hong Kong government, public bodies, and law enforcement agencies will also take place in early September.

As for advocacy, the Commission's social media contest targeting tertiary students has concluded with the programme capturing over 1.6 million views on different online platforms. I am truly impressed by the talent and creativity showcased by the young participants, especially the winning team who has developed an interesting analogy on market sharing. In addition, the Commission's advocacy work has once again earned major acclaim, winning five international accolades for its anti-market sharing videos and TVC. Internationally, the Commission has participated in several regional and international antitrust conferences and workshops where we continue to build bilateral relationships with other jurisdictions.

The Commission is now full speed ahead preparing for its inaugural international conference, the Hong Kong Competition Exchange 2018, to be held on 1-2 November. This event will feature lively and informative discussions on important and emerging competition topics by an incredible line-up of speakers. This is not only a milestone event for the Commission but also a not-to-be-missed conference for anyone who is interested in the latest local and global developments in the competition arena. I look forward to welcoming you at the Exchange.



冼博崙 Brent Snyder
行政總裁 Chief Executive Officer

「香港競爭集思匯」現正接受報名！

Registration for Hong Kong Competition Exchange is now open!



競委會首次主辦的國際會議「香港競爭集思匯 2018」（集思匯）定於 2018 年 11 月 1 至 2 日在九龍海逸君綽酒店舉行。

集思匯聚集全球眾多知名講者，包括來自中國內地、歐盟、南非、英國、美國及本港的法官，亦有來自加拿大、中國內地、歐盟、印尼、愛爾蘭、巴基斯坦及新加坡的競爭當局代表，此外，亦會有著名學者、法律及商界專業人士，而財政司司長陳茂波先生將為大會致開幕辭。

這些重量級的競爭法專家會就重要及熱門的競爭議題分享見解，議題包括制定競爭中立的政策、競爭法對企業及其創新的影響、中國內地反壟斷法的發展，以及香港《競爭條例》的實施情況等。集思匯已獲香港律師會、香港董事學會及香港特許秘書公會認可，出席的律師會及董事學會會員可獲得 8 個持續專業發展 (CPD) 學分，而特許秘書公會會員則可獲 8.5 CPD 學分。

門券現正公開發售，切勿錯過這場熱切期待的盛事，立即[登記](#)兼享早鳥優惠！

The Commission's inaugural international conference, "Hong Kong Competition Exchange 2018" (CompEx), is set to be held at the Harbour Grand Hotel Kowloon on 1-2 November 2018.

The CompEx will bring together a stellar line-up of speakers from around the world including judges from Mainland China, the European Union, South Africa, the United Kingdom, the United States and Hong Kong as well as competition law enforcers from Canada, Mainland China, the European Union, Indonesia, Ireland, Pakistan and Singapore. Other speakers include leading academics, legal practitioners and business professionals. The Financial Secretary Mr. Paul Chan will speak at the conference opening.

These heavyweight competition law figures will exchange perspectives and share exclusive insights on important issues and trending topics such as competitive neutrality of policies, the effects of competition law on businesses and their innovation, the development of Mainland China's Anti-Monopoly Law as well as the implementation of the Hong Kong Competition Ordinance. The CompEx has been accredited by both The Law Society of Hong Kong and The Hong Kong Institute of Directors with 8 CPD points, and by The Hong Kong Institute of Chartered Secretaries with 8.5 CPD points.

Tickets are selling fast so don't miss your chance to be part of this highly anticipated event! [REGISTER NOW](#) to enjoy the early bird discount!

競委會加強與公營界別接觸

Commission steps up efforts to engage the public

反競爭行為會令消費者、企業及公營機構失去競爭所帶來的裨益，包括更便宜、質素更好及選擇更多的產品和服務。在本港的經濟活動中，公共採購對產品及服務的整體需求佔相當大的比重，而公營界別的活動及職能，亦影響着香港市民的日常生活。因此，公職人員有必要懂得如何在日常工作中辨識潛在的反競爭行為，並保持警覺，察悉可能違反《條例》的行為。

有鑒於此，競委會於5月出版了一份簡便的「《競爭條例》公營界別指南」（指南），協助政府部門、公共機構及執法機關人員了解《條例》的重點，及辨識市場上的反競爭行為，例如圍標、瓜分市場及合謀定價。指南亦隨附了一張簡易清單，協助公營界別就擬推出、或現有政策對競爭可能造成的風險及影響，進行初步評估。

除了編製教材外，競委會於5月聯同政府物流服務署，就如何維護採購過程為政府採購人員舉辦了一場講座。競委會亦將於9月3至5日為公營界別舉辦一系列培訓，由世界著名的競爭法專家——倫敦國王學院的Richard Whish教授（御用大律師）及美國喬治華盛頓大學的William Kovacic教授主講。而競委會的高級行政人員亦會同場分享在本港執行競爭法的經驗及觀點。

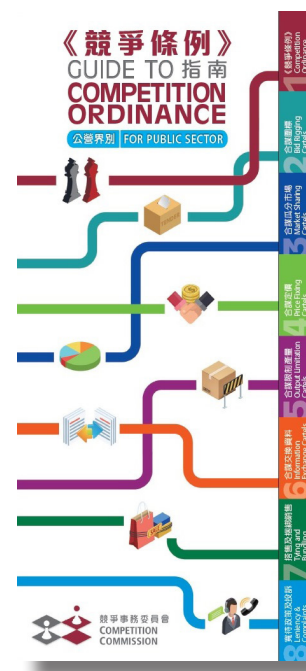
[按此](#)瀏覽指南。

Anti-competitive practices deprive consumers, businesses and the public sector of the benefits arising from competition, which include better prices, quality and more choices of products and services. Public procurement accounts for a significant proportion of the demand for goods and services in our economy and the activities and functions of the public sector also affect the daily lives of everyone in Hong Kong. It is therefore very important for public officers to be equipped with the knowledge of how to identify potential collusive conduct in their work and to stay vigilant in detecting potential contraventions of the Ordinance.

To this end, the Commission published a handy “Guide to Competition Ordinance” (Guide) in May to assist personnel from the government, public bodies and law enforcement agencies in understanding the key elements of the Ordinance and identifying signs of anti-competitive practices in the marketplace, such as bid rigging, market sharing and price fixing. The Guide is also supplemented with a quick checklist as a first step to assist policymakers in assessing the competition impacts of new, or existing, policies and initiatives.

Besides producing educational materials, the Commission, in collaboration with the Government Logistics Department, held a seminar on safeguarding the procurement process for the government’s procurement staff in May. On 3-5 September, the Commission is organising a series of training sessions for the public sector by two of the world’s leading competition experts – Professor Richard Whish QC from King’s College London and Professor William Kovacic from George Washington University. Senior executives from the Commission will also share their experiences and perspectives on competition law enforcement in Hong Kong.

Click [HERE](#) to view the Guide.



競委會向人力資源界提供意見

Commission advises HR sector on potential competition risks

競委會於 2018 年 4 月發表了一份意見公告，並以現實生活情景作範例，協助人力資源界從業員、僱主及僱員了解在《條例》下，應注意哪些與僱傭手法有關的競爭風險。

不論有關企業所提供的產品或服務是否相同，就聘請僱員而互相競爭的企業均為競爭對手。僱員應享有具競爭的僱傭市場所帶來的好處，例如獲得更高的薪酬、更好的福利以及更多機會。但若然僱主串謀訂定薪金或其他僱傭條款，或協定不僱用彼此的僱員，則會損害僱員的利益。

僱主之間應避免訂立協議或從事經協調做法，競委會認為以下做法有違反《條例》第一行為守則的風險：

合謀訂定僱員薪酬的協議

企業如就僱員薪酬的任何組成部分達成協議，等同於合謀訂定人力資源的價格。就此而言，僱員薪酬不限於薪金，還包括福利及津貼，例如保險福利、房屋津貼或遣散費。

禁止挖角協議

企業之間如就招攬或僱用彼此的僱員達成協議，例如拒絕僱用彼此僱員的協議，等同於透過編配人力資源供應來瓜分市場。

交換敏感資料

僱主之間就其僱員的薪酬或與招聘有關的意向，直接或透過第三方分享影響競爭的敏感資料，不論是互相分享或單方面分享，均會引起競爭問題。

自《條例》全面生效以來，競委會曾遇到一些企業就僱傭條款或招聘事宜互相協調的情況，這些做法有可能會引起第一行為守則下的競爭問題。如競委會有合理理由懷疑有任何違反《條例》的行為，將採取適當的執法行動。

[按此](#)瀏覽意見公告。

The Commission published an advisory bulletin in April 2018 with practical examples based on real-life scenarios to raise the awareness of human resources (HR) professionals, employers and employees about the potential risks under the Ordinance of certain employment practices.

Businesses competing to hire employees are competitors regardless of whether they are engaged in the provision of the same products or services. Employees are entitled to the benefits of a competitive market for their services, such as better salaries, benefits, and increased opportunities. Those competitive benefits may be jeopardised if companies collude to fix wages or other terms of employment, or agree not to recruit (poach) each other's employees.

Employers should refrain from entering into agreements or engaging in concerted practices, in particular the following employment practices which the Commission considers are at risk of contravening the First Conduct Rule of the Ordinance.

Wage-fixing agreements

Businesses that reach an agreement on any element of compensation for employees are fixing the price of labour. Compensation in this context is not limited to salaries but also includes benefits and allowances such as insurance benefits, housing allowance or severance payment.

專題 Feature

Non-poaching agreements

Businesses that reach an agreement in relation to the solicitation or hiring of each other's employees, for example, an agreement to refuse to hire each other's employees, are engaging in market sharing by allocating sources of supply.

Exchange of sensitive information

Sharing of competitively sensitive information between employers about their intentions in employee compensation or hiring, be it reciprocal or unilateral, and whether done directly or through a third party, may also give rise to competition concerns.

Since the commencement of the Ordinance, the Commission has encountered situations where businesses have engaged in coordinated practices related to employment terms and conditions or hiring in general that may raise concerns under the law. Where the Commission has reasonable cause to suspect that conduct contravening the Ordinance has taken place, it will take the appropriate enforcement action.

Click [HERE](#) to view the advisory bulletin.

宣傳及倡導 Advocacy & Outreach

港大隊伍憑風趣比喻勝出宣傳挑戰賽

HKU team won advocacy challenge with witty analogy

競委會舉辦的大專生教育宣傳活動「玩·PO·競」社交媒體挑戰賽，於5月正式結束。14支入圍隊伍在4月於社交平台以各種形式發放創意帖子，競逐觀眾眼球，經過9日的激烈交鋒後，港大隊伍「Two Marketers」憑着解釋瓜分市場概念的精彩比喻，榮膺冠軍。該隊伍巧妙地將抽象而複雜的概念，轉化成具體影像及風趣對白。作品的其中一名幕後主腦黃家強(Chris)於7月分別到競委會及評判羅永聰先生的顧問公司實習。我們亦藉此機會與Chris交流，了解他參加這次挑戰賽的心路歷程。



冠軍作品幕後主腦黃家強
Chris Wong, mastermind of the
winning piece

競委會：參加這次比賽最大的挑戰是什麼？

Chris：最大的挑戰是要創作出準確的比喻，過程中需要搜集大量資料，深入了解《競爭條例》，尤其是瓜分市場的行為。另一挑戰是如何在傳達資訊和保持娛樂性之間取得平衡，並同時保持高水準的製作。

競委會：你從這次比賽中最大的得著是什麼？

Chris：當然是能從中了解到香港的競爭法體系。《競爭條例》相對較新，在參賽之前，我們對這條法例認識不多，我期望讓更多人了解這條與我們日常生活息息相關的法例。

競委會：你可以和我們分享一下實習期間的體驗嗎？

Chris：是次實習讓我獲益良多，當中有機會與競委會行政總裁 Brent 直接交流，他還跟我分享了自己在美國和香港執行競爭法的經驗。另外，我亦學習到如何實施宣傳倡導策略，如何將抽象的想法轉化成實在的概念，在迎合大眾之餘，也忠於自己的創作方向。

[按此](#)瀏覽挑戰賽的精華片段和三甲隊伍的作品。

The Commission's tertiary education campaign, "Post to Compete" Social Media Advocacy Challenge, drew its curtain in May. After a 9-day battle in April, during which 14 shortlisted teams competed for the eyeballs of the online audience by publishing feeds on social media platforms in different creative forms, "Two Marketers", a team from the HKU was selected as the winner for its fascinating analogy to explain the concept of market sharing. This

宣傳及倡導 Advocacy & Outreach



港大隊伍以精彩比喻解釋瓜分市場

The HKU team has created a fascinating analogy to explain market sharing

team of talented youngsters has craftily transformed an abstract and complex concept into concrete images and witty dialogues. Chris Wong, one of the masterminds behind the winning piece, took up a valuable internship opportunity at the Commission and with the consultant company of one of the judges, Mr Law Wing-chung, in July. We have talked to Chris about his journey throughout the Challenge.

CC: What were the key challenges encountered in the contest?

Chris: The key challenge was devising the analogy accurately, which required extensive research and an in-depth understanding of the Competition Ordinance, in particular market sharing. The other challenge was striking a balance between delivering information and entertainment, while maintaining a high standard of production.

CC: What is the key takeaway from the contest?

Chris: It is definitely learning about Hong Kong's competition regime which we had little knowledge of prior to this experience. The Competition Ordinance is relatively new and more people should get to know about this piece of legislation which impacts our daily life in many ways.

CC: How would you describe your internship experience?

Chris: I find the internship experience very rewarding. I got the opportunity to directly interact with the Commission's CEO Brent who shared with me his antitrust enforcement experience in the US and Hong Kong. I also learnt about advocacy strategies execution and to transform abstract ideas into well-developed concepts that can cater to a wide demographic while remaining true to our initial creative direction.

Click [HERE](#) to view the Challenge highlights and feeds produced by the top 3 teams.

嚴打瓜分市場宣傳系列囊括五個國際獎項

Commission's anti-market sharing publicity scooped five international awards

競委會就嚴打瓜分市場宣傳計劃所製作的「舌尖上的陰謀」教育短片系列，擊敗來自 9 個國家的 130 份參賽作品，在表揚全球優秀視覺傳訊作品的 Questar Awards 2018 中，勇奪四項殊榮，當中包括最高榮譽大獎。這短片系列亦贏得第 51 屆美國電影及錄像節年獎的創意作品獎。此外，是次宣傳計劃的電視廣告，亦於美國互動及視覺藝術學院舉辦的 2018 Communicator Awards 中奪得大獎。

本地方面，這短片系列在各大網上平台錄得超過 1,000,000 瀏覽次數，坊間反應熱烈，引起傳媒、公眾人士及網絡紅人熱議。



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Competing against over 130 entries from nine countries, the Commission's "A Bite of Conspiracy" educational video series under the anti-market sharing campaign scooped four accolades including one Grand Award in the Questar Awards 2018 which celebrates excellence in visual communications worldwide. The series also won a Certificate of Creative Excellence in the 51st US International Film & Video Festival Annual Awards Competition. In addition, the TVC under the same campaign was named Winner in the 2018 Communicator Awards organised by the US Academy of Interactive & Visual Arts.

Locally, the video series has achieved a total of over one million views on different online platforms, earning positive feedback and discussions among the media, members of the public and key opinion leaders.

宣傳及倡導 Advocacy & Outreach

持續與持份者接觸

Ongoing stakeholder engagement

講座

2018年6月25日，競委會為公眾及商界舉辦了一場講座，參加者反應踴躍，並對多個競爭議題積極提問。另外，競委會於過去4個月亦安排了3場簡報會，與不同界別的持份者溝通，並先後到訪多間學校，為高中及大專院校學生舉辦了5場講座，持續與青少年接觸。

[按此](#)登記參加下一場講座。[按此](#)登記參加學校講座。

創業日

競委會於5月17至18日參加了由香港貿易發展局舉辦的「創業日2018」展覽，透過於展館內設置展板、互動問答遊戲、播放輕鬆短片及派發實用指南，提升中小型企業及創業人士對《條例》的認識，並提醒他們如何預防圍標及瓜分市場等合謀行爲。



Seminars

A seminar targeting members of the public and businesses was held on 25 June 2018, where the audience showed great interest and raised questions on various competition issues. In the past four months, three engagement presentations were arranged for various stakeholders. The Commission also continued to engage the younger generation with five school talks targeting senior secondary, college and university students conducted.

To register for the next seminar, please click [HERE](#). To register for school talks, please click [HERE](#).

Entrepreneur Day

The Commission participated in the Entrepreneur Day held on 17-18 May 2018 by the Hong Kong Trade Development Council. The booth featured display panels, videos, an interactive game and various practical toolkits to help SMEs and new start-ups enhance their understanding of the Ordinance and prevention of cartels such as bid-rigging and market sharing.

最新動態 Upcoming Activity

「合謀貓」再次出沒！ The “Cartel Cat” is back!

圍標及瓜分市場均屬嚴重反競爭行爲，競委會將不遺餘力嚴厲打擊。為進一步宣揚有關訊息及提高社會意識，競委會將透過「合謀貓」展覽，展示各種圍標及瓜分市場的形式，以及有關行爲的警示，「合謀貓」將於9月4日至年底在本港各大運動場館巡迴展出。歡迎大家齊來捉「貓」！[按此](#)瀏覽展出時間及地點。

Bid-rigging and market sharing are two types of serious anticompetitive conduct on which the Commission will spare no efforts in pursuing. To further spread the message and raise awareness across the community, the Commission's “Cartel Cat” pop-up exhibit displays practical information on different forms of bid-rigging and market sharing with red flags of such practices and will tour around major sports centres in Hong Kong from 4 September till end of the year. Come catch it! Click [HERE](#) to view the exhibition schedule and locations.

競爭事務委員會
Competition Commission
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合謀圍標 瓜分市場

合謀圍標違反(競爭條例) Bid Rigging Cartels Contravene the Competition Ordinance

合謀圍標一般涉及兩個或以上之企業商號，就特定標單達致合謀，令該標標價(《競爭條例》)。A bid rigging cartel generally involves two or more businesses agreeing that they will not compete with one another in tender for particular projects. Bid rigging is a contravention of the Competition Ordinance.

常見形式 Common Types

- 1 特別標 Bid suppression**
一次或多名競爭對手協定不投標，或撤回已提交之標單。
One or more competitors agree not to bid, or withdraw a bid submitted previously.
- 2 掩護式投標 Cover bidding**
競爭對手協定以較低價投標，或提出較不利條款(讓出投標者不會接受)的標單。
Competitors agree to submit bids with higher prices or less attractive (or unacceptable) terms than the bid of the designated winner.
- 3 協定中標 Bid rotation**
競爭對手協定一輪標單的合約由誰得標。
Competitors agree to take turns at being the winning bidder on a series of contracts.

警示 Red Flags

- 不可思議的標價有相似之處，或標價極低(例如零標、對開標)、零標、或訂價。
Unusually similar bids, some irregularly low (typical, miscalculation), hand-typed typos, or identical pricing etc.
- 沒有充分理由的情況下，投標者突然撤回標單。
Bids that are suddenly withdrawn without good reason.
- 某及標者同時為自己及另一競爭對手入標。
A bidder submits bids to own and a competitor's bid.
- 某及標者從未中標，卻不斷參與投標，或甚少入標的投標者，一旦入標，應收中標。
A bidder that never wins but keeps on bidding or rarely bids but always wins when it does.
- 中標者屬次聯合的工作分予多個的投標者。
The winning bidder repeatedly subcontractors work to unsuccessful bidders.
- 大多數投標者及/或以相似的方式提高標價，而沒有任何解釋。
Sudden and identical increases in price by most bidders without explanation.
- 投標者在某項標單目的標價較低，但在其他標單則較高。
A bidder that bids relatively high in some tenders but relatively low in other similar tenders.
- 標單中出現可疑的標價，或標單中出現可疑的標價。
Suspicious statements indicating that bidders may have reached an agreement, or bidders justifying their price by referring to "industry suggested price".

為防止合謀圍標及瓜分市場行爲，投標者應在標單中註明其標單不屬「合謀圍標」，在標單中註明其標單不屬「合謀圍標」。
To safeguard procurement against cartel conduct, procurers may consider incorporating "Non-collusion Clauses" in their tender documents and contracts. A bid of tender documents are now available on the Commission's website.

競爭事務委員會
COMPETITION COMMISSION
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國際交流活動 International Activities

2018年6月，競委會行政總裁冼博崙先生於巴黎出席經濟合作與發展組織（OECD）舉辦的「合作與執法會議」，並在一圓桌會議環節擔任演講嘉賓，講述有效寬待計劃的重點及寬待計劃普及化所面對的挑戰。

2018年7月，聯合國貿易和發展會議於日內瓦舉行每年一度的「競爭法和競爭政策問題政府專家組會議」。競委會高級行政總監畢仲明先生在討論發展中國家所面對的海路運輸業競爭和監管挑戰的環節中，就競委會向香港班輪航運業發出的首個集體豁免命令，分享有關經驗。

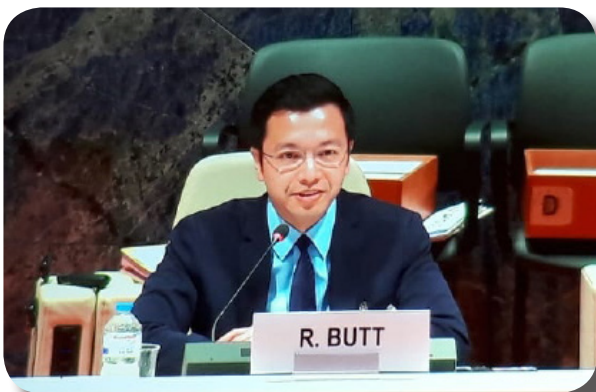
2018年7月31日及8月1日，主席胡紅玉女士率領競委會代表出席在北京舉行的「第七屆中國競爭政策論壇」，論壇主要討論競爭政策及執法事宜，以及回顧過去10年實施的中國《反壟斷法》。競委會行政人員在多個小組中與其他與會者互相交流，講述競委會在執行競爭法方面的工作成績、所面臨的挑戰及未來展望。

In June 2018, the Commission's CEO Mr Brent Snyder attended the Organisation for Economic Co-operation and Development (OECD) Meeting on Co-operation and Enforcement in Paris where he was a featured speaker at a roundtable session on the keys to an effective leniency programme and challenges of proliferation.

The annual Intergovernmental Group of Experts (IGE) meeting on Competition Law and Policy under the United Nations Conference on Trade and Development was held in Geneva in July 2018. At the roundtable on challenges faced by developing countries in competition and regulation in the maritime transport sector, Senior Executive Director of the Commission Mr Rasul Butt shared Hong Kong's experience in granting the Commission's first Block Exemption Order in relation to the liner shipping industry.



主席胡紅玉女士在「第七屆中國競爭政策論壇」中發言
Chairperson Ms Anna Wu spoke at the 7th China Competition Policy Forum



高級行政總監畢仲明先生在「競爭法和競爭政策問題政府專家組會議」中發言
Senior Executive Director Mr Rasul Butt spoke at the Intergovernmental Group of Experts meeting on Competition Law and Policy

On 31 July and 1 August 2018, a delegation of the Commission led by the Chairperson Ms Anna Wu attended the 7th China Competition Policy Forum in Beijing. The forum covered different issues surrounding competition policy and enforcement as well as a review of China's Anti-Monopoly Law in the past decade. Executives of the Commission spoke on a number of panels covering its major achievements, challenges faced and the way forward for the Hong Kong competition regime.

競爭法學堂 *Competition Law Classroom*

人力資源界的潛在競爭風險（上）

負責進行招聘的人力資源界人員，或許並不察覺一些沿用已久的業界做法，可能會令他們面臨違反《條例》的風險。在未來兩期的《競爭快訊》中，我們將列舉多個虛構範例，讓你對此有更深入的了解。

同一行業的兩名人力資源經理，為了減低成本而協定不會招攬或聘請對方的僱員。此做法會否引起《條例》下的競爭問題？

這種行為屬於禁止互相挖角的協議。若企業訂立禁止互相挖角的協議，或就此交換資料透露其意向，實際上即是透過編配人力資源來瓜分市場。這類安排具有損害競爭之目的，或會引起競爭問題。

行業協會為了評估未來薪酬趨勢而進行調查，會否引起競爭問題？

由於行業協會的會員甚有可能被視為競爭對手，因此他們應避免分享有關薪金及福利等方面的未來意向。這種交換資料的行為，不論是直接與競爭對手、或透過獨立第三方間接進行，均會被視為具有損害競爭之目的。

如要進行此類趨勢調查，應委託獨立第三方進行，並集中收集過往的數據，再以綜合及不記名的形式發放。

Potential competition risks for HR officers (Part 1)

HR professionals who are at the forefront of recruiting in the labour market are often not aware that some long-standing industry practices may actually put them at risk of running afoul of the Ordinance. In the coming two issues, we are going to highlight some practical examples based on real-life scenarios that would help you understand more.

Two HR managers in the same industry agree not to solicit or hire each other's employees so as to minimise costs. Is this an issue under the Ordinance?

This is a form of non-poaching agreement. Firms that enter into such agreements or exchange information about their intentions in this respect are, effectively, engaging in market sharing by allocating sources of supply. Such arrangements have the object of harming competition and might raise competition concerns.

Will industry associations conducting surveys to benchmark future compensation trends raise competition concerns?

As members of a trade association are likely to be considered competitors, they should avoid sharing information as to their future intentions with respect to salaries and benefits. Such exchanges, whether occurring directly between competitors or indirectly through an independent third party, will be considered to have the object of harming competition.


If a survey is to be conducted, it should be done through the appointment of an independent third party focusing on historical salary data and distribute them in an aggregate and anonymised form.

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