



## 行政總裁的話 Message from CEO

過去四個月，競爭事務委員會（競委會）在不同範疇的工作均有相當進展。2017年3月，競委會首次在競爭事務審裁處對五間涉嫌圍標的資訊科技公司展開法律程序，為本港實施競爭法短短一年多以來的一個重要里程碑。競委會在5月發表了本港車用燃油市場研究報告，指出一些或妨礙市場有效競爭的特徵，並就如何解決問題提出建議。宣傳方面，競委會去年舉辦的「打擊圍標 全城目標」大型宣傳活動贏得了多項國際大獎。此外，我們首項接觸青少年的教育推廣活動——「競爭有道」宣傳創作比賽共收到超過130份中學生參賽作品，頒獎禮於上月圓滿舉行，三支勝出隊伍獲頒發「新加坡遊學之旅」大獎。

內部方面，競委會新加入了兩位高級行政人員，同時亦準備迎接將於9月初接任行政總裁的Brent Snyder先生。就我個人而言，這將會是我任內最後一次為《競爭快訊》執筆。成立競委會和見證《競爭條例》實施，俱為十分精彩和富滿足感的經歷；競委會在這段短時間內所建立的一切，皆令我引以為傲。我也非常榮幸能夠與競委會各委員，以及一眾專業且投入的同事們一起共事。未來我定會緊貼競委會的動向，在此亦衷心祝願競委會一切順利，繼續為廣大市民的利益而努力。



韋樂思 Rose Webb  
行政總裁 Chief Executive Officer

The Competition Commission (Commission) has made some major progress in various aspects of its work in the past four months. In March 2017, the Commission commenced proceedings for the first time before the Competition Tribunal against five IT companies for alleged bid-rigging. It was indeed an important milestone in the short history of competition law enforcement in Hong Kong. In May, we released our market study report on the local auto-fuel market in which we have identified some features that may have hindered competition in the market with recommendations on how to address these issues. In terms of advocacy, the Commission has won a number of major international awards for its multi-pronged anti-bid rigging campaign launched last year. Our first outreach to the younger generation – the “Don’t Cheat. Compete” advocacy contest - received over 130 creative entries from secondary students. We held a large-scale award ceremony last month with a Singapore study tour prize for the three winning teams.

Internally, we have recently welcomed two new senior executives and the Commission is also expecting its next CEO, Mr Brent Snyder, in early September. On a personal note, as this will be my last message during my term as CEO, the experience of setting up the Commission and witnessing the commencement of the Competition Ordinance has been fascinating and rewarding. I am proud of all we have achieved in a short space of time. It has been an honour to work with our Commission members and our team of professional and dedicated colleagues. I will closely follow the Commission's future activities and wish it every success as it continues to work for the benefit of the Hong Kong community.

## 競委會發表本港車用燃油市場研究報告

### Commission releases local auto-fuel market study report

本港油價被評為貴絕全球，令車用燃油市場的競爭情況備受關注。為回應公眾關注，競委會對該市場進行研究，並於 5 月初公布了研究結果。除審視本港車用燃油價格及走勢外，競爭會發現市場上有多個妨礙競爭的結構及行為特徵，相信是造成香港車用燃油價格偏高的其中因素。在報告中，競委會就如何解決這些問題提出了一些建議。

#### 結構特徵

**市場高度集中 縱向結合度高：**市場高度集中，數個主要零售商由煉油、進口至油站銷售，「一條龍」式供應燃油。

**成本結構類似：**主要零售商的成本結構類似，難有競爭對手可以低成本突破傳統作出競爭；香港地理環境亦限制另類零售模式興起。

**進入市場及擴充業務的門檻高：**新經營者要有足夠油站及碼頭倉庫設施，尤其困難。

**單一汽油產品供應：**香港是全球唯一只向駕駛者提供 98 辛烷值汽油的地方。這種汽油屬於最高級別的燃油之一，價格亦較高。

#### 行為特徵

**不重視牌價展示、極着重折扣優惠：**油站的燃油牌價並不顯眼，有些油站甚至不展示牌價。折扣優惠普遍，但相當複雜，透明度亦低。

**價格很少隨時間或地區改變：**零售油價少有變動，每個零售商旗下所有油站的燃油價格均相同。

#### 競委會建議

**重新引入 95 辛烷值汽油：**這建議應可提供較廉宜的產品選擇，惠及消費者。本地零售商過往聲稱，他們只出售 98 辛烷值汽油是反映顧客喜好。然而根據香港大學進行的調查，86.2% 受訪者表示，假如較低辛烷值的汽油售價便宜 10%，他們有可能會轉用該種燃油，當中有 45.7% 受訪者更表示他們肯定／極有可能會轉用。

**推出更多油站用地：**儘管過去十年，無鉛汽油的淨進口量上升超過 50%，但油站數目卻只有少於 5% 的增幅。政府應考慮推出更多油站用地進行招標，及／或改變更多土地作油站用途，降低進入市場及擴充業務的門檻。

**檢討油站用地的招標制度：**隨著 2018 年有多幅油站用地租約期滿，政府應趁此機會儘快接觸不同持份者，就油站用地的招標制度作出檢討，加強市場競爭。



**油站應清楚展示牌價及門市折扣：**很多海外城市的油站均會設立大型裝置展示即時油價。特別是當油價變動時，駕駛者可從價格板上直接得知不同油站的燃油牌價和門市折扣，有利格價比較。據調查結果顯示，近 70% 受訪者認同油站應該在顯眼的價格板上清楚顯示價格資料。

**探討不同「結構性」改革方案：**針對本港車用燃油市場高度集中的結構性障礙，長遠而言政府應探討多項「結構性」改革方案，例如研究可行方法提供收費合理的碼頭倉庫設施讓新經營者進口燃油，以及探討其他車用燃油供應來源。

就社會上普遍認為本港油價偏高及各油公司定價一致這兩種現象，競委會在報告中指出，單憑這兩種現象，並不構成反競爭行為的確實證據。有時當一間公司調整價格，其他公司會在短時間內跟隨，直至價格水平看齊或相近，這種「平行定價」現象幾乎是所有售賣完全相同產品（例如燃油）的市場特點。競委會這次研究除了探討價格的接近程度，亦仔細分析了市場的各種形態。

相關研究報告及其摘要已上載本會[網站](#)。

Hong Kong's petrol prices being highlighted as the highest in the world have brought the state of competition in the auto-fuel market into sharp focus. In response to public concerns, the Commission has conducted a study into the market and released a report of the findings in early May. In addition to looking at auto-fuel prices and their movements, the Commission has identified a number of structural and behavioural features of the auto-fuel market that are hindering competition and which the Commission believes would likely have contributed to the high auto-fuel prices in the territory. The Commission has made recommendations in the report on how to address these issues.

## Structural features

**High seller concentration and high degree of vertical integration:** The market is highly concentrated with several major retailers dominating the auto-fuel supply chain - from refining, importing to retailing at petrol-filling stations (PFS).

**Similar cost structures:** Major retailers are likely to have broadly similar cost structures, i.e., there is no low-cost 'maverick' competitor. Hong Kong's topography also limits the opportunities for alternative retailing models to emerge.

**High barriers to entry and expansion:** It is particularly difficult for new entrants to obtain a sufficient number of PFS sites and access to terminal storage facilities.

**Single product for petrol:** Hong Kong stands alone in the world where only 98 RON, one of the most expensive and highest grades of petrol, is available for motorists.

## Behavioural features

**Little emphasis on pump prices & strong emphasis on discounts:** Pump prices are not prominently displayed at PFS (some even do not display pump prices). Discounts are prevalent, yet complex and opaque.

**Limited variation in prices across time or geography:** Retail prices move infrequently and are the same across each retailer's stations in different locations.



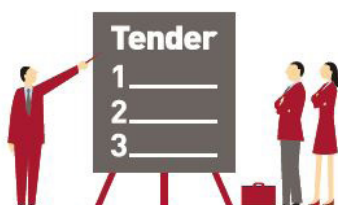
## Recommendations



**The re-introduction of 95 RON petrol:** This recommendation should provide a cheaper product choice benefiting consumers. Retailers have once stated that their decision to sell only 98 RON petrol reflected customer preference. However according to a survey conducted by the University of Hong Kong, 86.2% of the respondents indicated that they are likely to switch to the petrol with lower octane level if it is 10% cheaper, while 45.7% will definitely / are very likely to make the switch.



**Increasing the number of PFS sites:** The number of PFS sites has only increased by less than 5% while the net imports of unleaded petrol are up by more than 50% over the past decade. The Government should consider enabling more sites for PFS use to be tendered and / or converted to reduce barriers to entry and expansion.



**Review of the tendering system for PFS sites:** With the leases of a number of PFS sites expiring in 2018, this is an opportune time for the Government to engage different stakeholders and review the tendering system with a view to introducing more competition to the market.



**Prominent display of pump prices and walk-in discounts at PFS:** The practice of prominently displaying auto-fuel prices at PFS is customary in overseas markets. With prominent price boards, motorists will easily know and compare the pump prices and walk-in discounts being offered at different stations, especially when prices are moving. A recent survey indicated that almost 70% of the respondents supported the display of price information on prominent boards at PFS.



**Exploration of potential 'structural' reform options:** In addressing the structural barriers in the auto-fuel market, the Government should explore potential 'structural' reform options – such as the provision of economically priced terminal storage enabling new entrants to import their own supplies of auto-fuel and explore alternative sources of auto-fuel supply.

To address common perceptions that petrol prices in Hong Kong are high and consistent across oil companies, the Commission pointed out in the report that these two features on their own cannot be taken as hard evidence of anti-competitive conduct. When one firm changes its prices, others promptly follow until they are all at the same or similar level again - this “parallel pricing” phenomenon is almost universal in any homogeneous product market and reveals very little about whether firms are competing or coordinating. The Commission in carrying out the study has looked beyond the mere similarity of prices and examined closely the market’s underlying dynamics.

The report and its executive summary are available on the Commission [website](#).

## 競委會就圍標案件入稟競爭事務審裁處

### Commission takes first bid-rigging case before the Tribunal

2017年3月，即《競爭條例》全面實施了15個月，競委會首次在競爭事務審裁處（審裁處）對5間涉嫌圍標的資訊科技公司展開法律程序，這是本港執行競爭法的一個重要里程碑，同時顯示了競委會打擊合謀行為的決心。

案件涉及5間資訊科技公司。競委會指該等公司涉嫌參與圍標，違反了《競爭條例》下的「第一行為守則」，有關的反競爭安排涉及某些公司提交虛假標書。競委會現正向審裁處作出申請，包括對各相關公司施加罰款，及宣布各方違反了《競爭條例》下的「第一行為守則」。審裁處定於2018年6月為案件展開聆訊。

是次展開法律程序，帶出了一個強烈的訊息：各行各業的市場參與者都應避免操縱投標；已參與圍標的人士，應考慮向競委會申請寬待；公眾人士亦應保持警覺，向競委會舉報任何懷疑圍標的行為，競委會將全面運用其權力打擊圍標。

In March 2017, fifteen months from full commencement of the Competition Ordinance, the Commission commenced proceedings for the first time against five IT companies for alleged bid-rigging before the Competition Tribunal. It was a significant milestone for the enforcement of competition law in Hong Kong and a sign of the Commission's determination in fighting cartel conduct.

The proceedings concern five IT companies. The Commission alleges that these companies contravened the First Conduct Rule of the Competition Ordinance by engaging in bid-rigging which involved the submission of "dummy" bids. The Commission is seeking remedies including pecuniary penalties and a declaration that each party has contravened the Ordinance. The case has been set down by the Competition Tribunal for hearing in June 2018.

These proceedings drive home the message that market participants in all sectors should steer clear of bid manipulation practices, while those already involved in rigging bids should consider approaching the Commission for leniency. Members of the public are encouraged to report suspected bid-rigging to the Commission, which will use the full extent of its powers to combat bid-rigging.



## 競委會公布委任 Brent Snyder 為下任行政總裁 Commission appoints Brent Snyder as next CEO

美國司法部轄下反壟斷局前副助理司法部長 Brent Snyder，將接替於今年 9 月初約滿的韋樂思女士，出任競委會行政總裁。Snyder 先生任職副助理司法部長期間，領導刑事執法組的執法、檢控、寬待及其他政策工作，並在美國近年多宗重要的反壟斷調查及審訊中擔當關鍵角色。隨著競委會的執法行動日漸增多，他的加盟十分可貴。

競委會亦歡迎新任行政總監（法律事務）史柏加先生，以及新任經濟及政策主管 Lilla Csorgo 女士加盟。在加入競委會前，史柏加先生為香港金融管理局的法律訴訟總監，而 Lilla Csorgo 女士則為前新西蘭商貿委員會首席經濟師。

此外，曾任職歐盟競爭總署的 Jindrich Kloub 先生亦將於今年 10 月加入競委會，擔任行政總監（行動）一職。以上三位均在其相關領域擁有相當豐富的專業知識和經驗，成就廣受認同，他們將帶領競委會行政團隊的工作。

Mr Brent Snyder, former Deputy Assistant Attorney General (DAAG) for Criminal Enforcement in the Antitrust Division of the US Department of Justice, will succeed Ms Rose Webb, whose contract as CEO will come to an end in early September. In his capacity as DAAG, Mr Snyder headed the Division's criminal enforcement function, overseeing enforcement, prosecutions, leniency and other policy work. He has played a pivotal role in some of the most important US antitrust investigations and trials in recent years. Mr Snyder's joining is timely and invaluable as the Commission enters the stage of growing enforcement actions.

The Commission has also recently welcomed a new Executive Director (Legal Services), Mr Steven Parker, and Head of Economics & Policy, Dr Lilla Csorgo. Mr Parker was the Chief Litigation Counsel of the Hong Kong Monetary Authority before joining the Commission and Dr Csorgo is the former Chief Economist at the New Zealand Commerce Commission.

In October, our new Executive Director (Operations), Mr Jindrich Kloub will join us from the Directorate General for Competition at the European Commission. With a wealth of expertise and experience in their respective fields, these well recognised professionals will continue to lead the executive arm of the Commission.

## 本地及國際專家探討香港競爭法議題

### Local and international competition law experts discuss the Hong Kong regime

競委會與香港競爭法學會於 2017 年 4 月 6 日合辦「香港競爭法研討會」。來自本地及海外的執法人員、專業人士和學者聚首一堂，探討有關執法方面的挑戰及分享對香港制度下縱向協議的見解。當日有超過 110 人出席研討會，與會者包括政府官員、學者、法律界人士、業界及海外代表。

The Commission and the Hong Kong Competition Association co-organised a seminar on "Aspects of the Hong Kong Competition Law Regime" on 6 April 2017. Local and overseas competition law enforcers, professionals and academics discussed enforcement challenges and shared their insights on vertical agreements under the Hong Kong regime. The event was well attended by over 110 government officials, academics, legal professionals and practitioners as well as overseas delegates.



# 宣傳及倡導 Advocacy & Outreach

## 中學生發揮創意 宣揚競爭法好處

### Secondary students unleash creativity to convey competition values

競委會舉辦的「競爭有道」全港中學生宣傳創作比賽於6月25日隨著頒獎禮順利舉行而圓滿結束，當天出席的評判、合作伙伴、學校和傳媒合共超過160人。是次比賽在短短3個月內，已吸引多達135份作品參加，脫穎而出的3支隊伍分別來自顯理中學、聖傑靈女子中學及順德聯誼會李兆基中學，他們的作品清楚掌握《條例》的主要概念和核心價值，而且表達手法極具創意，成功贏得是次比賽的大獎。首30名入圍作品亦於同日活動中展出。

三支勝出隊伍隨即於7月前往新加坡，拜訪當地的競爭事務機構及學者，了解另一司法管轄區實施競爭法的情況，度過了充實及有意義的3天行程。另外，6支優秀隊伍及9支入圍隊伍亦於頒獎禮上獲得嘉許，他們所展示的創意、技巧和對條例的認識，均使來自競爭法、教育、創作及傳媒等不同界別的評審印象深刻。

競委會相信，年輕人不單是消費者，他們將來亦會投身職場或創業，在香港經濟擔當着重要的角色。因此，他們必須明白公平競爭的重要性，以及認同成功應建基於才智、創新和努力不懈。

是次比賽由競委會主辦，教育局協辦，於2017年2月展開；活動旨在鼓勵高中學生在老師的帶領下，深入了解競爭概念，並各展所長，以寫作、漫畫、動畫或影片形式，創作生動有趣的故事，表達競爭法的精神和重要性。是次比賽只是競委會接觸青少年計劃的開始。為加深學生對《條例》的認識，競委會已開始到不同中學舉辦講座，並將於今年稍後把宣傳教育工作推展至大專學生。

得獎作品已上載競委會[網站](#)。

The Commission's "Don't Cheat. Compete" Advocacy Contest drew its curtain on 25 June with a large scale award ceremony attended by over 160 guests including contest judges, partners, participating schools and the media. The contest received an overwhelming 135 entries in just three months. Three teams from Henrietta Secondary School, St. Catharine's School for Girls and S.T.F.A Lee Shau Kee College were selected as winners for their clear understanding and creative presentation of the key concepts and core values of the Competition Ordinance. The top 30 entries were also showcased at an exhibition on the day.



「競爭有道」宣傳創作比賽30強作品在頒獎禮上展出

The works of the top 30 teams of the contest were exhibited at the award presentation ceremony



# 宣傳及倡導 Advocacy & Outreach

As part of the Grand Award, the three winning teams have enjoyed a fruitful and meaningful 3-day study tour to Singapore where they visited the local competition authority and academics to learn about how competition law works in another jurisdiction. Another six outstanding teams and nine finalists were also awarded for their excellent works. The judging panel comprising experts and professionals with competition law, education, creative and media background was profoundly impressed by the high standard of creativity, technical skills and clear comprehension of the Ordinance the young participants have demonstrated.



三支勝出隊伍拜訪新加坡競爭委員會

The 3 winning teams visited the Competition Commission of Singapore

The Commission believes that young people are not only consumers, but also future members of the workforce or entrepreneurs who will be playing key roles in the Hong Kong economy. It is therefore essential for them to appreciate the importance of fair play and that success should be built on ingenuity, innovation and hard work.

Co-organised with the Education Bureau, the contest was launched in February 2017 with an aim to encourage senior secondary students, under the guidance of their teachers, to deepen their understanding of competition concepts and develop compelling stories on the values and importance of competition law in story writing, comic drawing, animation or video. This contest is only the Commission's first initiative in reaching out to the younger generation. To enhance students' understanding of the Ordinance, the Commission has started offering talks to individual secondary schools and will also extend its outreach to tertiary students later this year.

Winning entries can be viewed on the Commission [website](#).





# 宣傳及倡導 Advocacy & Outreach

## 競委會打擊圍標宣傳活動贏得國際大獎

### Commission's anti-bid rigging campaign scored major international awards

競委會舉辦的「打擊圍標 全城目標」宣傳活動，於國際競爭規管網絡及世界銀行集團合辦的「競爭倡導比賽」中，在「成效為本：計劃、實行及監察倡導工作」組別贏得大獎。競委會推行的倡導工作已連續兩年在這個國際性比賽中勝出。

競委會的「打擊圍標」教育短片亦參與了美國互動及視覺藝術學院舉辦的第二十三屆 Communicator Awards，在全球 6,000 個參賽作品中脫穎而出，贏得「公共服務網上短片」組別大獎。此外該主題的電視宣傳短片亦於表揚優秀視像作品的 Questar Awards 中，奪得銅獎。

「打擊圍標 全城目標」宣傳活動於去年 5 月推出，旨在提高社會對圍標問題的認識，並提醒各界如何辨識及預防圍標。該項宣傳活動不但提升了公眾意識，亦讓競委會從中收到一些個案資料及相關證據，促成競委會首次就圍標案件入稟競爭事務審裁處。競委會對國際間的認同深感鼓舞，亦會繼續透過不同活動，讓公眾了解更多有關競爭條例和競委會的工作。



The Commission's "Fighting Bid-rigging Cartels" Campaign was named Winner in the category of "Engaging through results: Successful experience in planning, implementing and monitoring advocacy strategies" in the Competition Advocacy Contest organised by the International Competition Network and World Bank Group. This is the second year the Commission's advocacy initiative received an award in this international advocacy contest.

In addition, the Commission's "Fighting Bid-rigging" Educational Video Series under the campaign was named Winner in the category of "Public Service Online Video" out of 6,000 entries around the world in the 23<sup>rd</sup> Communicator Awards presented by the US Academy of Interactive & Visual Arts. The TV announcement of the campaign also won a Bronze in the Questar Awards which celebrates excellence in videos worldwide.

The anti-bid rigging campaign was launched last May with an aim to raising the awareness of bid-rigging and educating the public on how to detect and prevent it. It was not only successful in promoting community awareness but also in bringing cases and relevant evidence to the Commission's attention leading to its first case brought to the Competition Tribunal. The Commission is deeply encouraged by the international recognition and will continue to help the public understand more about the Ordinance and our work through various initiatives.

# 宣傳及倡導 Advocacy & Outreach

## 競委會參與「創業日 2017」展覽

### Commission participates in Entrepreneur Day 2017



競委會於 5 月 19 至 20 日參加了由香港貿易發展局舉辦的「創業日 2017」展覽，透過於展館內設置展板、互動問答遊戲及播放輕鬆短片，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。競委會於兩日展期內共接待超過 1,400 名參觀人士。



The Commission participated in the Entrepreneur Day held on 19-20 May 2017 by the Hong Kong Trade Development Council. The booth featured display panels, videos and an interactive game to help SMEs and new start-ups understand the Ordinance and how to prevent bid-rigging. Over 1,400 visitors were received in two days.

## 持續與公眾及持份者接觸

### Continuous public and stakeholder engagement

為協助公眾及企業了解《條例》，競委會於 2017 年 3 月及 6 月分別舉行了兩場研討會，其中一場與工業貿易署中小企業支援與諮詢中心合辦。兩場研討會均座無虛席，反應熱烈；出席者對不同競爭議題甚感興趣並踴躍提問。

今年 3 月至 7 月期間，競委會共出席了 33 次會議和研討會，與不同持份者包括立法會議員、不同行業協會和公眾團體溝通。其中，競委會會晤了中華人民共和國國家發展和改革委員會官員，交流《條例》在香港實施的情況和競委會的執法重點。



Two seminars open to the public and businesses were held in March and June 2017 respectively. One of these seminars was co-organised with the Support and Consultation Centre for SMEs (SUCCESS) of the Trade and Industry Department. Response to these seminars was overwhelming with full houses of audience showing great interest and raising questions on various competition issues.

Between March and July 2017, the Commission participated in 33 engagement meetings and seminars with various stakeholders including legislators, different trade associations, public bodies. One of them was a meeting with officials from National Development and Reform Commission of the People's Republic of China to discuss the implementation of the Ordinance in Hong Kong and the Commission's enforcement priority.



# 國際交流活動 International Activities

美國律師協會於 3 月底在華盛頓舉行了 2017 年春季反壟斷會議。是次年度大會匯聚了資深執法人員、律師、企業法律顧問、學者、法官、經濟學家和商界，分享有關競爭法及消費者保障法例的知識。作為「亞洲反壟斷罰則」論壇的講者，競委會行政總裁 Rose Webb 女士與區內的執法人員和法律界人士討論到最合適罰則的經濟理論，以及要達致該等目標時會遇到的實際情況。

今年 5 月，近 600 名來自世界各地超過 100 個競爭事務機構、非政府顧問以及國際組織的代表齊集葡萄牙，出席由國際競爭規管網絡舉辦的年度大會。國際競爭規管網絡乃促進國際間合作及分享經驗和知識的重要平台，該年度大會已成為競爭法界別每年的重要活動。競委會行政總裁與其他代表在全體會議及分組討論中均積極發言，匯報香港實施競爭法的最新情況及其對社會的影響，以及競委會的工作和執法重點。



行政總裁韋樂思女士（左二）於國際競爭規管網絡年度大會的全體會議上發言

CEO Ms Rose Webb (second left) spoke at the plenary session of the ICN Annual Conference



高級行政總監畢仲明先生於國際競爭規管網絡年度大會的「法律程序及透明度」環節中發言

Senior Executive Director Mr Rasul Butt spoke at the “Due Process and Transparency” Session at the ICN Annual Conference

The American Bar Association Spring Antitrust Meeting 2017 was held in Washington DC at the end of March. This annual meeting brings together senior enforcement officials, private attorneys, in-house corporate counsel, academics, judges, economists and business professionals to share knowledge about all aspects of competition and consumer protection law. As a speaker on the “Antitrust Penalties in Asia” Panel, CEO Ms Rose Webb discussed the economics of optimal penalties and practical issues in relation to achieving these goals with law enforcers and legal professionals in the region.

Nearly 600 representatives of over 100 competition agencies, non-governmental advisors (NGAs) and international organisations from around the world gathered in Portugal in May to participate in the Annual Conference of the International Competition Network (ICN). ICN provides an important platform for international cooperation as well as the exchange of experience and knowledge and the conference has become a leading event in the competition calendar. The Commission’s CEO and other representatives played an active role in the conference, speaking at a number of the plenary sessions and panels to give an update of competition law enforcement in Hong Kong, its impact on the community so far and the Commission’s work and priorities.



# 競爭法學堂 *Competition Law Classroom*

## 瓜分市場觸犯法例

瓜分市場是指競爭者協定不爭奪彼此的顧客（不爭奪顧客協議），和不進入或擴展業務至競爭者的市場。他們會將消費者、供應商或銷售地域進行編配或分割，或是協定對市場分配維持現狀，例如鼓勵顧客繼續選擇現有供應商／賣家，或是當顧客引致市場份額出現改變時，向彼此作出補償。

瓜分市場帶來的害處不只局限於特定行業。企業或會因為希望減低市場競爭的壓力而同意瓜分市場，以壟斷其獲分配的市場並享受箇中利益。然而，瓜分市場行為阻礙競爭，令到價格受人為因素的影響而飆升，減少價格、商品／服務和品質的選擇，使消費者和其他經營者蒙受損失。

根據《競爭條例》，瓜分市場屬嚴重反競爭行為，競委會將會優先處理。企業之間應公平競爭，並應就經營地點、供應來源或目標顧客等決策，作出獨立決定。

## *Anti-competitive market sharing breaks the law*

Market sharing is when competitors agree not to compete for each other's customers (non-poaching agreements) and agree not to enter or expand into a competitor's market. This can be done by dividing or allocating customers, suppliers or geographic areas among themselves. It could also include an agreement to maintain the status quo with respect to each other's market shares, such as by agreeing to encourage customers to stay with their existing supplier/seller or to compensate each other for any customer driven changes in market share.

The scourge of market sharing is not limited to any particular sector. Businesses may agree to carve up a market so they face less pressure to compete with each other and enjoy monopoly privileges in their respective allotted markets. Market sharing restricts competition, keeps prices artificially high, reduces choices on price, product / service and quality, hurting both consumers and other businesses.

Under the Competition Ordinance, market sharing is a serious anti-competitive conduct which the Commission accords priority to. Businesses should compete fairly and make independent decisions as to where to operate, who to source from and which customers to pursue.

