



競爭快訊

Competition Matters

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行政總裁的話 Message from CEO

第一期《競爭快訊》的讀者，歡迎你！競爭事務委員會（競委會）將透過這份通訊，定期為大家提供競委會的最新資訊。

香港的跨行業競爭法終於在 2015 年 12 月 14 日全面生效。在過去六個月，競委會上下一直非常忙碌，積極處理大量與競爭有關的投訴及查詢。對於市民主動向競委會表達他們的關注，我們深感鼓舞。競委會不但可從中得知對公眾而言最需要優先處理的問題，我們所獲得的資料，亦可作為日後倡導活動和執法行動的依據。

競委會於過去兩年持續地推行教育和及宣傳工作，觀察到公眾對《競爭條例》（《條例》）的認識已日漸提高，這確實值得欣喜；不少企業及行業協會亦已採取實質行動修正其作業手法，證明合規文化已逐漸形成。

我們在全力履行執法職能之餘，亦會繼續進行教育及接觸各界的工作。

《競爭快訊》內載有競委會的最新消息、各項活動的詳情，以及與競爭法有關的知識，讓公眾及持份者緊貼競委會的最新動向，並增進他們對《條例》的了解。

要建立一個有效的競爭制度，實有賴香港各界的支持。競委會希望與你們攜手合作，為社會創造一個公平競爭的營商環境，令香港更具競爭力。

Welcome to the first edition of *Competition Matters* through which the Competition Commission (Commission) will regularly update all its stakeholders on its activities.

Hong Kong's first cross-sector competition law finally came into full effect on 14 December 2015. The past six months have been extremely busy for everyone in the Commission with our hands full handling an influx of complaints and enquiries on competition issues. We are encouraged that people are reaching out to us with their concerns, as this allows us to better identify priority issues for the public at large, and the intelligence we are receiving can form the basis of compliance and enforcement activities.

Following our two years of ongoing education and engagement work, the Commission is pleased to see increased public awareness of the Competition Ordinance (Ordinance). We have also seen concrete changes to the practices of a number of industries and trade associations, showing that a compliance culture is taking shape.

While carrying out our law enforcement function diligently, we will continue our education and outreach efforts. Featuring news from the Commission, details on events and seminars as well as educational tips on competition law, our newsletter aims to keep the public and stakeholders abreast of the Commission's latest updates and also enhance their understanding of the Ordinance.

An effective competition regime requires the support of everyone in Hong Kong. We hope to join hands with you to create a more competitive Hong Kong and a level-playing field for all.



韋樂思 Rose Webb
行政總裁 Chief Executive Officer

競委會行業協會計劃見成果 – 企業陸續修正營商手法

Commission's project on trade associations yields changes in business practices

《競爭條例》在去年 12 月全面生效前，本港企業涉及潛在反競爭行為的情況，並非罕見。行業協會及專業機構（統稱「協會」）在鼓勵業界推行良好作業方式及爭取業界權益方面，擔當著舉足輕重的角色。但是，由於這些協會促進了會員之間的交流，故有可能成為策劃或協助反競爭安排的源頭。因此，隨著《條例》全面生效，行業協會應特別注意，避免籌劃或助長任何會違反競爭法的行為。

有見及此，競委會於 2015 年中展開了行業協會及專業機構計劃，確保這些協會能了解並遵守《條例》。競委會於 3 月發表了一份報告，公布該計劃的初步結果，計劃所取得的成果令人鼓舞。

競委會於 2015 年 6 月展開該項計劃，推出「[競爭條例與行業協會](#)」小冊子，並向逾 500 個協會派發，隨後亦舉辦了一系列研討會及會議，讓不同的協會參與。除了教育及倡導工作外，競委會亦全面審視了逾 350 個設有網站的協會所刊登的公開資料，發現逾 20 個協會的做法屬於高風險類別，在《條例》全面生效後有可能違法。除了那些已經與競委會進行討論的協會外，競委會於 2015 年 11 月致函了這些高風險類別的協會，確保它們知悉競委會的關注。

整體而言，計劃至今反應良好。在《條例》全面生效的前後，有 15 個協會已經或正在取消價格限制或收費表。

對於香港部分主要行業及界別的一些營商手法出現轉變，以致競爭力隨之提升，競委會深感鼓舞。該 15 個協會已採取措施改變長久以來沿用的守則和政策，取消一項或多項價格限制或收費表，足證合規文化正逐漸形成。

然而，競委會留意到，有一些協會仍然在從事高風險的行為。競委會亦會留意那些協會未有公開的做法，以及聲稱已改變，而事實上沒有對限制競爭的協議作出實質改變的做法。

競委會鼓勵尚未檢視其營商手法的企業，立刻採取措施，確保遵守法例的規定。由於《條例》現已全面生效，各大協會及其成員如有從事合謀行為，將面臨競委會對其採取執法行動的風險。

競委會網站提供了一系列實用而內容詳盡的資料，有助行業協會分析其違規風險。各協會如有任何疑問，亦歡迎與競委會聯絡。

請按[此處](#)參閱有關計劃的詳細資料。



Before the Competition Ordinance came into full effect last December, it is no secret that potentially anticompetitive conduct was common among businesses in Hong Kong. Trade and professional associations (associations) play a vital role in shaping best industry practices as well as promoting their industry's interests. However, as these associations facilitate interaction between members, they can be the source of, or provide support to, anti-competitive arrangements. With the coming into effect of the Ordinance, it was important that going forward, trade associations did not organise or facilitate conduct that would contravene Hong Kong's new competition laws.

For this reason, the Commission launched a project on trade and professional associations in mid-2015 to ensure their compliance with the Ordinance. A report, released in March, announced the initial results of the project, which are encouraging.

The Commission commenced the project with the publication of [“The Competition Ordinance and Trade Associations” brochure](#) in June 2015 which was sent to over 500 associations, followed by a series of seminars and engagement events for different associations. In addition to advocacy and education efforts, the Commission reviewed the published practices of over 350 associations with official websites and identified over 20 associations whose public practices appeared to place them at high risk of contravening the Ordinance after it came into full effect. In addition to the associations whom the Commission was already in discussion with, the Commission wrote to a number of these high risk associations in November 2015 to ensure that they were aware of its concerns.

The Commission has so far received a positive response overall and is aware that in the period immediately before or following commencement, fifteen associations removed or were in the course of removing their price restrictions or fee scales.

The Commission is encouraged by the shift in business practices, and the resulting increase in competitiveness, across some important industries and sectors in Hong Kong. These fifteen associations have taken steps to change long standing codes and policies, removing one or more price restrictions or fee scales. This is solid proof that a compliance culture is starting to take shape in Hong Kong.

However, it is noted that a number of associations are still engaging in high risk conduct. The Commission will also stay alert to the non-public practices of associations and changes in published practices which are not translated into actual changes to the underlying agreement that restrict competition.

The Commission encourages those who have not yet reviewed their business practices to immediately take steps to ensure compliance. As the Ordinance is now in full effect, associations and their members who are engaged in cartel conduct now risk enforcement action by the Commission.

Practical and informative materials are available on the Commission's website to assist trade associations to undertake this analysis. Associations are also welcome to approach the Commission if they are in doubt.

More details of the project can be found [HERE](#).



宣傳及倡導 Advocacy & Outreach

競委會電視短片系列榮獲國際獎項

Commission's TV series scoops major international awards

競委會的首個大型宣傳項目：「競爭有道」電視短片系列（短片系列），憑藉創新的意念，以及為社會帶來的正面效應，榮膺兩個國際大獎。

在國際競爭規管網絡 (International Competition Network) 與世界銀行集團合辦的「競爭倡導比賽」(Competition Advocacy Contest) 中，全球各地競爭事務當局提交了共 43 個優秀作品參賽，競委會的短片系列脫穎而出，贏得「透過公眾參與促進競爭改革」組別大獎；另外，短片系列亦在 *Concurrences Review* 與美國喬治華盛頓大學法律學院競爭法中心合辦的「國際反壟斷創作比賽」中，被選為「最具創意反壟斷法律小品」。

對香港社會而言，競爭法是一個全新的概念，競委會採用了新穎獨特的方式，透過一輯十集的電視短片，解釋《條例》的好處及當中的精髓。該短片系列由知名演員擔綱演出，並於 2015 年 7 月在免費電視台（無線翡翠台）黃金時段播放。每集一分鐘的短片引用了虛構示例，配合公眾及商界日常遇到的實際情景作出演繹。

如大家錯過了此生動有趣的短片系列，可即瀏覽競委會[網站](#)重溫。



The Commission's first major advocacy initiative, "Compete with Integrity" TV Series (Series), has recently scooped two international awards for its innovative concept and positive impact on the community.

Competing among 43 outstanding entries submitted by competition agencies around the world, the Series was the winner in the category of "Catalysing competition reforms through citizen and civil society engagement" in the Competition Advocacy Contest organised by the International Competition Network and the World Bank Group. It was also named the "Most Innovative Antitrust Soft Law" in the Antitrust Writing Awards organised by *Concurrences Review* and George Washington University Law School Competition Law Center, which celebrate the best writings published in the antitrust or law & economics fields worldwide.

As competition law is a new and complex concept to the Hong Kong community, the Commission had adopted a bold and innovative way of explaining the benefits and main provisions of the Ordinance through a ten-episode TV programme starring renowned actors broadcast at prime time on a local TV channel, Jade, last July. Each of the one-minute episodes carries a hypothetical example presented in real-life situation where members of the public or businessmen can relate to in their daily life.

You can now watch this informative and interesting award-winning programme on our [website](#) in case you have missed it.

宣傳及倡導 Advocacy & Outreach

權威學者解釋競爭法中的經濟學

Leading thinker speaks on the role of economics in competition law

競委會於 2016 年 1 月 21 日舉行了「傑出講者系列」的第三場演講，主講嘉賓為經濟合作與發展組織競爭法主席兼法國最高法院前法官 Frederic Jenny 教授。是次演講主題為經濟學在競爭法中的角色。Frederic Jenny 教授是全球首屈一指的競爭法及競爭政策學者，曾在 120 個設有競爭法的司法管轄區中的大部分地區，參與制訂競爭法和有關政策。他的獨到觀點為出席者提供了具啟發性而生動的一課。

請按[此處](#)參閱是次演講的簡報內容。

The Commission organised the third instalment of its Distinguished Speaker Lecture Series on 21 January where Professor Frederic Jenny, Chairman of the OECD Competition Law and Policy Committee and a former Judge at the Supreme Court of France, talked about the role of economics in competition law enforcement. Professor Jenny is one of the world's leading thinkers on competition law who has been involved in developing competition law and policy in most of the 120 jurisdictions with competition laws. His unique perspective gave our enthusiastic participants an insightful and enjoyable evening.

Click [here](#) to view the presentation materials of the lecture.



跨界別海報宣傳活動

Cross-sector publicity poster campaign

競委會於 3 月向各界企業派發有關《競爭條例》全面生效的宣傳海報，提醒他們遵守《條例》。

「出貓」一詞在廣東話中常用來描述以欺騙手法破壞公平競爭的行為。競委會於《條例》全面生效的宣傳活動中採用了這個概念，以一隻西裝革履的貓，象徵從事合謀行為的奸商。

宣傳海報十分受歡迎，不少企業向競委會索取更多海報，供其張貼於辦公室內。任何人士如有興趣，歡迎[下載](#)並協助宣揚有關訊息，鼓勵各界人士遵守《條例》。

The Commission sent out publicity posters on the full commencement of the Competition Ordinance to a large number of businesses in Hong Kong in March as a reminder for compliance.

出貓(“or taking out the cat”) is a commonly used Cantonese term to depict cheating against fair competition and the concept was used in the Commission’s publicity campaign on the full commencement of the Ordinance. The cat in business attire featured in the poster is a symbol of greedy and collusive businessmen engaged in anticompetitive conduct.

The poster campaign was proven to be very popular and numerous requests have been received from businesses asking for more posters to be displayed in their offices. Interested parties are welcome to [download](#) and share our poster to spread the word about the Ordinance and encourage compliance.



宣傳及倡導 Advocacy & Outreach

持續與公眾及持分者接觸

Continuous public and stakeholder engagement

《競爭條例》全面生效之後，競委會並沒有放緩宣傳倡導及接觸各界的工作。

今年 2 月至 4 月期間，競委會為公眾及商界舉辦了三場研討會，其中一場是與工業貿易署轄下的中小企業支援與諮詢中心合辦，是競委會致力與政府部門合作，與中小企廣泛接觸的其中一項計劃。每場研討會均座無虛席，參加者反應踴躍，提出的問題涉及招標、操控轉售價及獨家交易等範疇。

今年首 5 個月，競委會參與了 31 場會議及研討會，與議員、行業協會及公共機構等不同持分者接觸溝通。

The Commission has not slowed down its advocacy and outreach since the full commencement of the Competition Ordinance.

Three seminars open to the public and businesses were held between February and April. One of these seminars was co-organised with the Support and Consultation Centre for SMEs of the Trade and Industry Department which is one of the Commission's initiatives to collaborate with government departments in reaching out to SMEs. The response to these seminars was overwhelming with full houses of audience who raised questions on topics such as tendering, resale price maintenance and exclusive distribution.

In the first five months of 2016, the Commission participated in 31 engagement meetings and seminars with various stakeholders including legislators, different trade associations and public bodies.



新一輯「常見問題」回應企業常見關注

New FAQs to address common concerns by businesses

競委會於 2 月在網站發布了最新一輯「[常見問題](#)」，進一步協助企業遵守《競爭條例》。《條例》在去年 12 月全面生效後，競委會根據收到的查詢與投訴，彙集了這輯「常見問題」，就本港企業及公眾對競爭相關事宜所產生的常見疑問、關注及誤解，作出解答及澄清，其中涵蓋多個範疇，包括定價偏低與掠奪性定價、操控轉售價格與建議零售價格、獨家交易、交換資料、招標以及搭售與捆綁銷售。這輯實用的「常見問題」是了解競爭法的起步點。

The Commission released an updated set of [frequently asked questions](#) (FAQs) on its website in February to further assist businesses in complying with the Competition Ordinance. Based on the enquiries and complaints the Commission received since full commencement of the Ordinance last December, the set of FAQs was developed providing answers and clarifications to common questions and misconceptions related to competition issues faced by businesses and the general public in Hong Kong. The FAQs cover a wide range of topics including *Low Pricing vs Predatory Pricing*, *Resale Price Maintenance vs Recommended Retail Prices*, *Exclusive Dealing*, *Information Exchange*, *Tendering and Tying & Bundling*. It is a handy and resourceful starting point for anyone who is in doubt of the new law.

國際交流活動 International Activities

競委會出席國際競爭規管網絡大會

Commission participates in International Competition Network conference

世界各地競爭事務當局同儕於 4 月底雲集新加坡，參加國際競爭規管網絡年度大會，此屆大會首度於東南亞地區舉行，吸引逾 450 位來自全球各地的代表出席，當中包括東盟及其他發展成熟的司法管轄區的政府官員，以及代表商界、消費者團體、學界、法律及經濟界別的非政府顧問。

鑒於越來越多競爭事宜所產生的影響跨越國境，並有多國競爭事務當局會同步審視這些事宜，國際競爭規管網絡致力促進成員間的合作與協調。競委會主席胡紅玉女士及管理層代表積極參與是次會議，在多個全體會議與小組討論環節均有致辭及討論。是次大會卓有成效，競委會謹此向主辦單位新加坡競爭委員會致謝。

Competition agencies from around the world gathered in Singapore at the end of April to participate in the Annual Conference of the International Competition Network (ICN). This was the first time the conference had been held in South East Asia, and over 450 delegates, including senior government officials from around the world, including ASEAN and other established jurisdictions, as well as non-governmental advisors (NGAs) who represent business and consumer groups, academia and the legal and economic professions attended.

With an increasing number of competition matters that involve cross-border effects and concurrent reviews by multiple agencies, the ICN helps to facilitate cooperation and convergence among its members. The Chairperson, Ms Anna Wu, and staff of the Competition Commission played an active role in the conference, speaking and moderating at a number of the plenary sessions and panels. The Commission would like to thank its hosts at the Competition Commission of Singapore for hosting such a productive and well organised event.



競委會主席胡紅玉女士及行政總裁韋樂思女士於會上發言。
The Commission's Chairperson, Ms Anna Wu and CEO, Ms Rose Webb speak at the Conference.



最新活動 Upcoming Activities

「打擊圍標 全城目標」大型宣傳活動 "Fighting Bid-rigging Cartels" Campaign

競委會最近展開「打擊圍標 全城目標」大型宣傳活動，以提升社會對圍標這問題的認知，並提供如何偵測及防止圍標的資訊。是次宣傳活動包括電視宣傳短片、小冊子以及一系列教育短片及電台節目。為進一步宣揚反圍標的訊息，競委會現正於香港不同地點舉行有關打擊圍標的巡迴展覽，歡迎大家一同參與。請按[此處](#)參閱宣傳活動詳情。

The Commission has recently launched a "Fighting Bid-rigging Cartels" Campaign to raise community awareness as well as to educate on how to detect and prevent bid-rigging. These initiatives include a new TV announcement, brochures and a series of educational videos and radio programmes. To further reach out to the community, a Roving Exhibition on the topic is now travelling around Hong Kong. You are welcome to join and learn more about combating this malaise. Click [here](#) for more details of the Campaign.

競爭法學堂 *Competition Law Classroom*

競爭事務委員會可以規管價格嗎？

《競爭條例》全面生效至今已 6 個月，有些產品的售價顯著下調。許多人或會思忖競委會是否會規管價格。其實，這是一個常見的誤解。

《競爭條例》並不會規管價格，競委會的角色亦非監管價格以確保價格「公平」。《競爭條例》旨在促進市場競爭，鼓勵企業以更佳的价格提供更好的貨品。

企業應該按照市況，獨立為其貨品及服務定價。在絕大部份情況下，業務實體獨立定價並不會引起競爭方面的問題。在極少數情況下，具有相當程度市場權勢的業務實體獨立作出價格決定，或可能會損害競爭，掠奪性定價便是其中一個可能發生的少數例子，受「第二行為守則」規管。

競委會雖然不會規管價格，但會遏止破壞競爭過程的不法營商手段，從而保護消費者，長遠來說，讓他們能夠享有更佳的价格、更優質的貨品及更多的選擇。

Is the Competition Commission a price regulator?

The Competition Ordinance has been in full effect for six months and some significant price adjustments have been seen in certain industries. Many wondered whether the Commission actually regulates prices. In fact, it is a very common misconception.

The Ordinance does not seek to regulate prices, and it is not the Commission's role to monitor prices to ensure prices are 'fair'. The Ordinance serves to promote competitive markets to encourage businesses to offer better products at better prices.

Businesses should independently set prices for their products and services based on market conditions. An undertaking's independent pricing decisions will almost never raise competition concerns. In very limited circumstances, undertakings with substantial market power making independent pricing decisions may harm competition. Predatory pricing, which is prohibited under the Second Conduct Rule of the Ordinance, is one of the limited examples of where this may occur.

The Commission is not a price regulator but it will stop illegal business practices that undermine the competitive process. Consumers are therefore protected and able to enjoy better prices, products and choices in the long run.

