



行政總裁的話 Message from CEO

去年12月，競爭事務委員會（競委會）於《競爭條例》（《條例》）全面生效一周年當日舉行記者招待會，總結各方面的工作成果。過去一年，競委會順利開展執法工作，《條例》的成效亦開始在香港經濟的各個層面逐漸呈現。從競委會所接獲投訴及查詢的數目和深度，可見企業及公眾對《條例》的意識正日漸提高，各界對《條例》亦非常關注。不少行業協會及商會已停止了一些可能違反《條例》的固有營商手法，顯示合規文化已逐漸形成。雖然競委會的工作仍在起步階段，但我們已有一個良好的開始。

在過去四個月，競委會一直忙於多項工作，各方面均進展理想。去年11月，競委會發布了一份意見公告，呼籲兩間專業協會糾正可能引起競爭問題的做法。在12月《條例》全面生效一周年前，競委會與加拿大競爭局簽署了諒解備忘錄，加強雙方在競爭事宜上的合作。至於宣傳倡導方面，競委會繼續透過展覽、研討會、講座及會議，以及在全港多個地點舉行的「圍標貓」巡迴展，積極與各界接觸。上月，競委會更開展了一項青少年教育活動，首度接觸年輕一代。在國際層面，競委會派代表出席了數個地區性及國際性反壟斷會議，從中向海外相關機構汲取經驗。

The Competition Commission (Commission) marked the first anniversary of the full commencement of the Competition Ordinance (Ordinance) in Hong Kong last December with a press conference reporting on its achievements in different areas. Over the past year, the Commission has settled well in its law enforcement role and begun to see the effects of the Ordinance across the Hong Kong economy. Increased awareness and strong interest from businesses and the public are reflected by the growing number and depth of complaints and enquiries received by the Commission. Some industries and trade associations have ceased long term business practices that might infringe the competition rules, demonstrating the emergence of a compliance culture. Although the Commission is still in its infancy, I am proud to say that we have made a good start.

In the past four months, the Commission has been very busy with progress made in various areas. Last November, the Commission published an advisory bulletin calling upon two professional associations to rectify practices which may raise competition concerns. Shortly before our anniversary in December, the Commission signed a Memorandum of Understanding with Canadian Competition Bureau to strengthen cooperation between the two agencies on competition issues. As for advocacy, we continue to actively reach out to the community through exhibitions, seminars, engagement briefings and meetings and a roving tour of our ubiquitous “bid-rigging” cat pop-up display around town. A youth advocacy campaign was rolled out last month as the Commission’s first initiative in engaging with the younger generation. Internationally, representatives of the Commission have participated in several regional and international antitrust conferences where we draw on the learning and experience of our counterparts globally.



韋樂思 Rose Webb
行政總裁 Chief Executive Officer

一周年回顧：競委會的工作及《條例》的成效

One year on: Competition's work and effects of the new law

2016年12月14日，《條例》全面生效一周年。這跨行業的競爭法在香港全面實施的短短一年間，競委會積極履行各項職能，各方面均取得良好進展，為有效執法、促進更具競爭性的營商環境打下穩固基礎。

執法工作

自《條例》全面生效至2017年2月底，競委會收到及處理了逾2,000宗投訴及查詢，其中一半與「第一行為守則」（反競爭協議）有關，當中大部分涉及合謀行為。此外，約有20%的投訴及查詢與禁止濫用市場權勢的「第二行為守則」有關。競委會對約130宗投訴作出了進一步評估，當中13%的個案已進入深入調查階段。這些數字反映出公眾對《條例》的認識日深，而競委會所處理的事宜亦與本港市民的生活息息相關。



在進行調查時，競委會已多次行使其強制蒐證權力，為數宗個案奠下基礎。撰文之際，競委會已就一宗圍標案件入稟競爭事務審裁處。

競委會亦在促進行業及專業協會守法的計劃中，取得令人鼓舞的成果。在競委會較早前識別的20多個高風險協會當中，經接觸溝通後，19個協會已在去年年底前刪除了價格限制及／或收費表。這些協會的守法表現，在社會上產生了廣泛的正面影響。

市場研究及政策意見

競委會在履行其執法職能的同時，亦有效開展了市場研究及提供政策意見。2016年5月，競委會發表了就住宅樓宇翻新及維修市場其中一些範疇的研究報告，同年第三季就公共屋邨的液化石油氣供應提出了政策意見，第四季則向行業協會及其成員，以及獲豁免的法定團體，發布了意見公告。競委會現正就同樣備受關注的車用燃油市場進行研究。

集體豁免

競委會在2016年9月，就若干定期班輪協議發出首個建議集體豁免命令，並在諮詢期間收到多份申述。此外，競委會亦收到香港定期班輪協會所提交的補充申述，並已就此徵詢各界意見。競委會將會在考慮所有申述及意見後，就有關申請作出最終決定。

宣傳倡導

競委會的倡導工作不僅提升了公眾意識、推動守法文化，亦讓競委會從中收到舉報及相關證據。2016年，競委會舉辦了6場大型講座及參加了逾90場簡報會及會議，接觸達9,000名商會、行業協會、中小企、專業機構代表及公眾人士。競委會創新及簡單易明的宣傳手法，於年內贏得多個本地及國際獎項，包括國際競爭規管網絡及世界銀行集團的嘉許。

The Commission marked the first anniversary of the full commencement of the Ordinance on 14 December 2016. In just one year of the cross-sector competition regime in Hong Kong, the Commission has made good progress in its various functions, laying a solid foundation for effective enforcement and a more competitive business environment.

Enforcement work

As at the end of February 2017, the Commission received and processed over 2,000 complaints and enquiries since the Ordinance came into full effect. Half of them were on the First Conduct Rule (anti-competitive agreements) with alleged cartel conduct comprising the bulk, and about 20% were on the Second Conduct Rule which prohibits the abuse of market power. Around 130 cases have been escalated for further assessment, of which 13% have proceeded to in-depth investigation stage. These numbers are reflective of the increasing public awareness of the Ordinance and the issues handled by the Commission were highly relevant to Hong Kong people's daily lives.

The Commission has made substantial use of its compulsory evidence gathering powers in conducting its investigations, laying the ground for several cases. At the time of writing, the Commission has taken a bid-rigging case to the Competition Tribunal.

The Commission has also made encouraging progress with its compliance project on trade and professional associations. As at end of 2016, nineteen out of over 20 high-risk trade associations identified by the Commission have removed price restrictions and / or fee scales as a result of the Commission's engagement efforts, casting a widespread positive impact in the community.

Market Study and Policy Advice

In addition to carrying out its enforcement function, the Commission has effectively pursued sectoral research and policy advice. The Commission published a report on its study into aspects of the residential building maintenance market in May 2016, and issued policy advice on the supply of liquefied petroleum gas to public rental housing estates as well as on members of trade associations and exempt statutory bodies in the third and fourth quarter of the year respectively. The Commission is currently conducting a study on the auto-fuel market which is another issue of public concern.

Block Exemption

The Commission published a proposed block exemption order for certain shipping liner agreements for consultation in September 2016 and received a number of representations from interested parties on the proposed order. The Commission has also received a supplementary representation from the Hong Kong Liner Shipping Association and has invited comments on this supplementary representation. The Commission will reach a final decision on the application after considering all of the representations and comments received.

Advocacy

The Commission's advocacy work has been effective not only in raising public awareness and fostering a compliance culture, but also in bringing cases and relevant evidence to the Commission's attention. In 2016, the Commission has organised 6 major seminars and participated in over 90 engagement briefings and meetings reaching 9,000 representatives of business chambers, industry associations, SMEs, professional bodies and members of the public. It has also won numerous local and international awards, including recognition from the International Competition Network and World Bank Group, for its innovative and accessible approach to competition law advocacy.



競委會與加拿大競爭局簽署諒解備忘錄加強雙邊合作

Commission and Canadian Competition Bureau strengthen cooperation under MOU

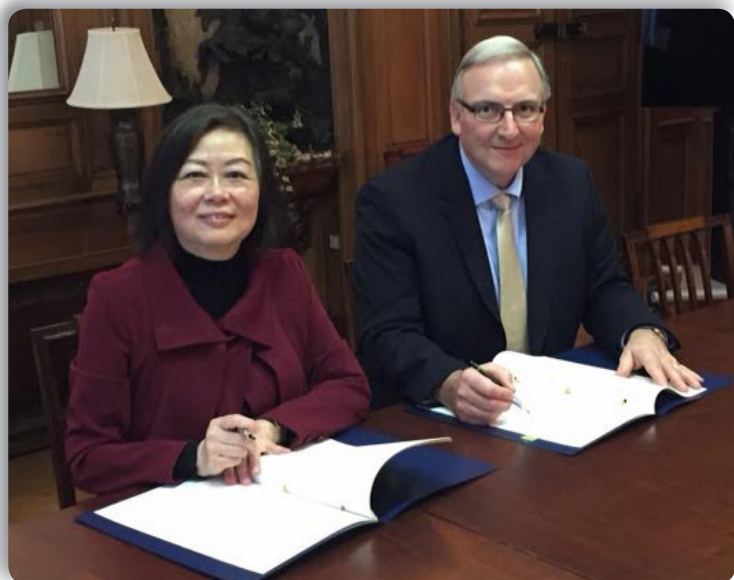
競委會與加拿大競爭局（競爭局）去年 12 月簽署諒解備忘錄（備忘錄），加強雙方在競爭事宜上的合作、協調及資料交流。此備忘錄是自《條例》全面生效以來，競委會所簽署的首份國際合作協議。

競委會認為，在商業全球化的環境中，與海外同類機構合作，以協調執行競爭法的方式，是十分重要的一環。因此，備忘錄的條款述明，雙方將交流競爭法知識及執法經驗，同時亦會開展其他形式的技術性合作，包括交換人員。在可行及符合雙方法例的情況下，備忘錄也為彼此分享執法資料及協調執法行動，提供了框架。

作為備忘錄下的其中一項交流計劃，加拿大競爭局最近借調任職該局 10 年、曾參與及領導調查多宗跨國及境內串謀及圍標個案的 Andrea McAuley 女士，出任競委會特別執法顧問，為期 6 個月。

競委會將繼續擴展與海外同行的雙邊交流，確保在競爭政策及執法方面有效協作。

[按此](#)瀏覽備忘錄（只有英文版）。



主席胡紅玉女士於去年 12 月與加拿大競爭事務專員
John Pecman 先生簽署諒解備忘錄

Chairperson Ms Anna Wu signed a MOU with Canadian
Competition Bureau's Commissioner Mr John Pecman
last December

The Commission signed a Memorandum of Understanding (MOU) with the Canadian Competition Bureau (Bureau) last December with the purpose of enhancing cooperation, coordination and information sharing between the two agencies on competition issues of mutual concern. This is the Commission's first international cooperation instrument since the full implementation of the Ordinance.

In a globalised business environment the Commission considers it important to collaborate with its international counterparts in achieving a harmonised approach to the application of competition law principles. To this end under the terms of the MOU, the two agencies will share competition law knowledge and enforcement experience and engage in other forms of technical cooperation including staff exchanges.

The MOU also provides a framework for the sharing of information about enforcement matters and for the coordination of enforcement activity where appropriate and where the parties' laws allow for it.

As part of the exchange programme under the MOU, Ms Andrea McAuley, who had been the lead officer on both international and domestic conspiracy and bid rigging files over the last ten years with the Bureau, has recently joined the Commission as Special Advisor (Enforcement) on a six-month secondment.

The Commission will continue to build on its bilateral exchanges with overseas counterparts to ensure an effective joined up approach to competition policy and law enforcement.

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

宣傳及倡導 Advocacy & Outreach

競委會呼籲兩家專業協會糾正引起競爭問題的操守準則條文

Commission calls upon two professional bodies to rectify problematic codes

競委會於 2016 年 11 月發布了一份意見公告，呼籲香港建築師學會（建築師學會）及香港規劃師學會（規劃師學會）採取適當行動，刪除或修訂其專業操守準則中引起競爭問題的條文。

建築師學會及規劃師學會分別在其網站刊載專業操守準則，有關準則規管其會員的行為。雖然學會本身乃法定團體，獲豁免不受《條例》規限，但作為其會員的業務實體，其行為並不享有該等豁免。兩家學會的操守準則中，當時仍有部分條文限制其會員獨立定價及爭取客戶的自由，競委會認為這些限制非常有問題。

截至 2017 年 1 月底，規劃師學會已經取消有問題的條文，而建築師學會亦已暫停執行有關條文。競委會歡迎兩間協會所採取的糾正措施。

競委會重申，即使獲豁免團體不受《條例》的行為守則規限，但仍受制於競委會的調查權力。當情況符合《條例》第 5 條所列出的條件時，行政長官會同行政會議可隨時藉規例使《條例》的行為守則及其他相關條文適用於任何法定團體。

所有獲豁免的團體應秉持《條例》的精神，停止可能損害競爭的做法。所有行業及專業協會，不論它們是否獲得豁免，都應避免從事反競爭行為，以身作則，維護本港自由平等的競爭環境，因為這些團體的行為，對相關市場及香港不同經濟活動的影響極為深遠。

[按此](#)瀏覽競委會的意見公告。

In late November 2016, the Commission published an advisory bulletin calling upon two professional associations, namely, the Hong Kong Institute of Architects (HKIA) and the Hong Kong Institute of Planners (HKIP), to take appropriate action to remove or amend certain provisions in their respective codes of conduct which have raised competition concerns.

The HKIA and the HKIP published on their websites codes of conduct which govern the conduct of their members. Although these associations are themselves exempt statutory bodies under the Competition Ordinance, the conduct of undertakings who are members of these associations is not exempt. Certain provisions prescribed in their codes of conduct then could restrict their members' freedom to set their own fees and take on clients. The Commission considered those restrictions to be highly problematic.

As at the end of January 2017, the problematic provisions were removed by the HKIP and suspended by the HKIA. The Commission welcomes the actions taken by the associations in this regard.

The Commission would like to reiterate that while exempt bodies may be exempt from the Conduct Rules, they are still subject to the investigation powers of the Commission, and it is always open for the Chief Executive in Council, where the conditions in section 5 of the Ordinance are met, to apply the Conduct Rules and other relevant provisions of the Ordinance to any statutory body by regulation.

All exempt bodies should adhere to the spirit of the Ordinance by ceasing practices that may harm competition. All trade and professional associations, be they exempt public bodies or not, should avoid anti-competitive practices and set a good example in safeguarding free and fair competition, as their behaviour could cast a widespread impact on the relevant markets and various economic activities in Hong Kong.

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

宣傳及倡導 Advocacy & Outreach

「圍標貓」出沒 注意！

"Bid-rigging Cat" is coming to town

延續競委會去年的「打擊圍標 全城目標」宣傳活動，競委會現正於全港多個地點舉辦「圍標貓」巡迴展。

「圍標貓」在三顆巨型的扭扭方塊上，展示常見的圍標形式、辨識圍標的方法及舉報可疑個案的途徑，並提供如何加強招標程序的小貼士。「圍標貓」在過去兩個月已分別現身荔景、堅尼地城、藍田、觀塘及坑口，並會陸續到訪以下地點：

日期	地點
31/3 – 20/4	恆安社區中心
24/4 – 12/5	紅磡社區會堂

此外，競委會較早前亦與民政事務處合作，在多個地區包括深水埗、黃大仙、元朗、沙田及南區安排講座，提升居民對圍標這議題的認識。



As an extension of the Commission's "Fighting Bid-rigging Cartels" Campaign launched last year, the Commission's "Bid-rigging Cat" pop-up display is now touring around Hong Kong.

The display is craftily presented as an innovative three-layered giant dice showcasing useful information on common types of bid-rigging, guidance on how to detect it, practical tips for procurement officers to strengthen tendering process and ways to report suspected cases. Having finished its stops in Lai King, Kennedy Town, Lam Tin, Kwun Tong and Hang Hau in the past two months, the "Bid-rigging Cat" will continue to pop up at the following locations until mid-May.

Date	Location
31/3 – 20/4	Heng On Estate Community Centre
24/4 – 12/5	Hung Hom Community Hall

In collaboration with a number of District Offices, the Commission has also arranged briefings on the topic of bid-rigging for residents in Sham Shui Po, Wong Tai Sin, Yuen Long, Shatin and the Southern District with an aim to raise community awareness of bid-rigging.

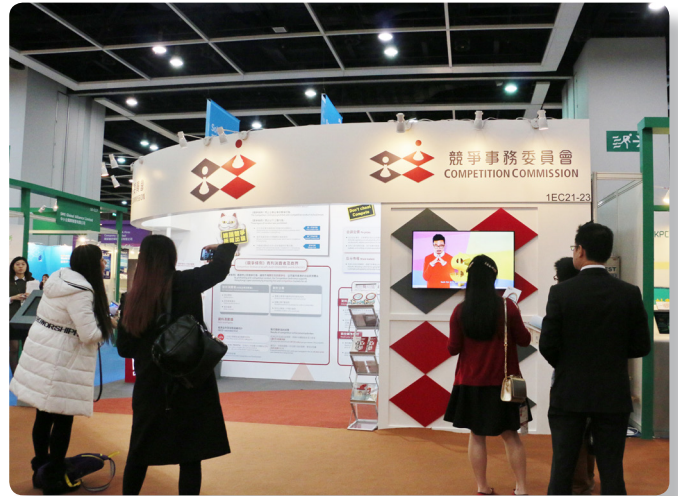
宣傳及倡導 Advocacy & Outreach

競委會參與「國際中小企博覽」

Commission's participation in the World SME Expo

競委會於 2016 年 12 月 1 至 3 日參加了由貿易發展局主辦的「2016 國際中小企博覽」，除了設置展板及互動遊戲外，現場還播放教育短片及派發各類小冊子，協助商界（特別是中小企）認識《條例》及如何防範圍標，期間吸引了 1,300 多名人士參觀。

The Commission participated in the World SME Expo held on 1-3 December 2016 by the Trade Development Council. The booth featured display panels, educational videos, brochures and interactive games to help businesses, especially SMEs, understand the Ordinance and how to prevent bid-rigging. Over 1,300 visitors were received during the period.



持續與公眾及持分者接觸

Continuous public and stakeholder engagement



競委會分別於 2016 年 11 月及 2017 年 1 月舉辦了兩場講座，其中一場是與香港生產力促進局的「中小企一站通」合辦，以廣泛接觸更多中小型企業。兩場講座均座無虛席，參加者反應踴躍，提出的問題涉及交換資料、操控轉售價、搭售及捆綁銷售等多個範疇。

2016 年 11 月至 2017 年 2 月期間，競委會共出席了 25 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。

Two seminars open to the public and businesses were held in November 2016 and January 2017 respectively. One of these seminars was co-organised with the Hong Kong Productivity Council SME One as an initiative to maximise the Commission's outreach to SMEs. Response to these seminars was overwhelming with full houses of audience who raised questions on topics such as information sharing, resale price maintenance as well as tying and bundling.

Between November 2016 and February 2017, the Commission participated in 25 engagement meetings and seminars with various stakeholders including legislators, different trade associations and public bodies.



國際交流活動 International Activities



「第五屆中國競爭論壇」於 2016 年 10 月 27 及 28 日在北京舉行，主題為「供給側結構性改革中競爭政策的實施」。來自全球各地的競爭法執法人員、反壟斷法專家及學者雲集，探討執法策略，並就跨境的反壟斷事宜互相交流。競委會主席胡紅玉女士擔任當中國際執法圓桌會議的講者，分享香港執行競爭法的情況及《條例》對社會所起的作用。

2016 年 12 月 1 至 2 日，「第十五屆經濟合作與發展組織全球競爭論壇」於巴黎舉行，來自多個國家的高層競爭法人員，圍繞不同的競爭事宜進行討論。胡紅玉女士在「促進競爭；保障人權」的環節中，探討人權與競爭法之間的聯繫。

2016 年 11 月，競委會經濟師出席了於阿姆斯特丹舉行的兩個會議，包括「競爭與消費者機構介入的影響評估」大會，以及「2016 年競爭法經濟學會會議」。這些會議探討的議題廣泛，包括計算監管機構干預所帶來的影響的各種理論與模式、經濟學在競爭個案中的角色，以及歐盟近期的一些合併及執法案例。

The 5th China Competition Policy Forum was held on 27 and 28 October 2016 in Beijing. With the theme of “Implementation of Competition Policy in Supply-side Structural Reform”, competition enforcement officials, antitrust experts and professionals from around the world gathered to explore enforcement strategies and exchange ideas over frontier antitrust issues. As a speaker on the International Enforcement Roundtable, Chairperson of the Commission Ms Anna Wu gave an update of competition law enforcement in Hong Kong and its impact on the community so far.



On 1-2 December 2016, the 15th Organisation for Economic Co-operation and Development (OECD) Global Forum on Competition was held in Paris bringing high-level international competition officials into dialogue on various competition issues. Speaking on the “Promoting Competition; Protecting Human Rights” panel, Ms Anna Wu explored the intrinsic links between human rights and competition law.

In November 2016, an economist from the Commission participated in two conferences in Amsterdam, namely the “Conference on Impact Assessment of Interventions of Competition” and “Consumer Authorities and the Association of Competition Economics Conference 2016”. A wide range of topics were covered in these conferences, including theories and models to calculate the impact of regulators’ interventions, role of economics in competition cases and some recent merger and enforcement cases in the European Union.



相片來源：消費者及市場事務局

Photo credit: Authority for Consumers and Markets

最新動態 Current & upcoming activities

參加「競爭有道」比賽 贏取新加坡遊學之旅

Compete to win a Singapore study trip

競委會與教育局聯合舉辦「競爭有道」宣傳創作比賽，鼓勵全港高中學生及教師認識競爭的重要性及《條例》的重點。

歡迎本港中四／中五（或其他學制同級）學生與老師組隊參賽，透過故事創作表達競爭法所帶來的好處。勝出隊伍將可參加為期三日的新加坡遊學團。得獎作品亦會上載競委會網站及其他媒體平台，以進一步向公眾宣揚競爭的重要性。

為協助學生及老師了解《條例》的重點，競委會將舉辦工作坊，並可安排到訪各中學舉行講座。有關是次比賽及學校講座的詳情，請瀏覽 www.compete.hk。

立即行動！報名截止日期為 2017 年 4 月 13 日，遞交作品的截止日期則為 2017 年 5 月 15 日。

The Commission has joined hands with the Education Bureau to launch the “Don’t cheat. Compete” Advocacy Contest to promote understanding of the value of competition and the Competition Ordinance among senior secondary school students and teachers in Hong Kong.

Secondary four/five students (or equivalent) and their teachers can now enter the contest by forming teams to create stories that illustrate the benefits of competition law. Winning teams will be sent on a three-day study tour to Singapore and their work will also be published on the Commission’s website and other media platforms to further promote the value of competition among the general public.

To support students and teachers in understanding the key aspects of the Ordinance, workshops will be arranged and the Commission will also offer talks / seminars to interested secondary schools as an ongoing initiative. For more details about the contest and school talks, please visit www.compete.hk.



Act fast! Registration ends on 13 April 2017 with the submission deadline on 15 May 2017.

香港及國際專家探討本港競爭法議題

Local and international experts to explore aspects of the Hong Kong competition regime

競委會與香港競爭法學會將於 2017 年 4 月 6 日在金鐘統一會議中心合辦研討會。香港及海外法律界人士、執法人員及學者將聚首一堂，討論議題包括在本港執行競爭法的挑戰及縱向協議。

The Commission and the Hong Kong Competition Association will jointly present a seminar on “Aspects of the Hong Kong Competition Law Regime” on 6 April 2017 at the United Conference Centre, Admiralty. Local and overseas competition law professionals, enforcers and academics will gather to discuss enforcement challenges and vertical agreements under the Hong Kong regime.

競爭法學堂 *Competition Law Classroom*

相同售價 = 合謀定價？

合謀定價是指競爭者之間協定貨品或服務的售價，而非各自獨立擬定價格。在《競爭條例》下，這是嚴重反競爭行爲。在合謀定價時，競爭者或會直接協定產品的售價、或一起制定計算價格的公式或與價格相關的元素，如折扣、回贈、推廣或信貸條款等。

有時，你可能會發現，市場上不同的供應商所訂定的價格相同或相近，或提供類似折扣，這是否表示他們正在互相串通、合謀定價？

其實，競爭對手的產品售價相同，不一定構成合謀定價的證據。如市場上售賣的產品相同或非常相似（例如燃油或在街市售賣的蔬菜），即使競爭對手之間沒有訂立反競爭協議，他們訂定的價格亦可能相同或非常相近。例如，假若你知道你將產品定價稍高於你的競爭對手，便極有可能失去大量顧客；而若定價低於競爭對手，他們則會隨即跟從你的定價，在這情況下，價格便會自然調整至相同水平。這現象亦稱爲「平行定價」(parallel pricing)，並無須涉及競爭對手之間作任何安排。

Same prices = Price fixing?

Under the Competition Ordinance, price fixing is a serious anti-competitive conduct in which competitors agree to fix prices instead of making independent pricing decisions. In a price fixing cartel, competitors may directly agree on a specified price, or they may agree on a formula to calculate prices or elements of price, including discounts, rebates, promotions or credit terms.

Sometimes, you may find different suppliers in a market charging the same or similar prices, or offer similar discount, does this mean they collude to fix prices?

In fact, competitors selling products at the same price is not necessarily evidence of price fixing. In markets where the product sold is the same or very similar (such as fuel, or vegetables in a wet market), competitors' prices may be the same or very similar even in the absence of an anti-competitive agreement. For example, if you know that pricing a little higher than your competitor is likely to mean that you will lose a lot of customers, and pricing below your competitor means that your competitor will quickly match your price, prices naturally tend to gravitate towards the same level. This is known as "parallel pricing" and does not require any arrangement between competitors.

