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## 競委會入稟香港首宗濫用相當程度市場權勢案件 Commission files Hong Kong's first ever abuse of substantial market power case



競委會於去年 12 月，就香港首宗濫用相當程度市場權勢的案件入稟競爭事務審裁處，標誌著本港競爭法體系的發展已達至另一重要里程碑。

競委會指稱，於 2015 年 10 月至 2018 年 1 月期間，林德 \* 利用其在供應醫療氣體（上游市場）的壟斷地位，在下游的醫療氣體管道系統保養市場，對林德以外另一間為公立醫院提供該類服務的潛在供應商 MGI (Far East) Limited，作出了一連串排除競爭的行為。有關行為包括在欠缺充分理由的情況下，

拒絕向 MGI 供應在保養氣體管道時所需的醫療氣體，以及施加多項任意及／或不合理的交易條款，導致 MGI 無法競投及／或履行氣體管道的保養服務合約。

競委會亦指稱，林德港氧相關部門的總經理曾積極牽涉入上述行為，故亦同時向其追究法律責任。

此案所涉及的行為性質嚴重，損害了氣體管道保養市場的競爭，繼而影響到為本港病人提供接近九成醫院服務的公立醫院，突顯了競委會採取執法行動的必要性。

詳情見[新聞稿](#)及[常見問題](#)。

\* 林德港氧有限公司及 Linde GmbH，統稱「林德」。

Hong Kong's competition regime reached a pivotal milestone with the Commission's filing of the city's first abuse of substantial market power case in the Competition Tribunal ("Tribunal") in December 2020.

The Commission alleges that between October 2015 and January 2018, Linde\* leveraged its de facto monopoly position in the supply of medical gases ("upstream market") and engaged in a series of exclusionary acts against MGI (Far East) Limited, the other potential service provider in the downstream medical gas pipeline systems ("MGPS") maintenance market for public hospitals. The various exclusionary acts ranged from unjustified denial of supply of medical gases necessary for carrying out the MGPS maintenance services, to the imposition of various arbitrary and/or unreasonable trading terms so that MGI could not compete and/or perform for MGPS maintenance services contracts.

\* Linde HKO Limited and Linde GmbH are collectively known as "Linde".

The Commission is also pursuing the General Manager of the relevant division of Linde HKO Limited, for his active involvement in the contravention.

The need to bring enforcement action in this case was particularly pronounced given the egregious nature of the conduct that harmed competition in the MGPS maintenance market, which in turn affected public hospitals that are providing close to 90% of hospital services to patients in Hong Kong.

View the [Press Release](#) and [Questions & Answers](#).

## 競委會向促成合謀定價安排的酒店集團及旅遊營辦商發出 違章通知書

### Commission issues infringement notices to hotel groups and tour counter operator for facilitating a price-fixing cartel

2021年2月，競委會向七家企業發出了違章通知書，當中包括六個酒店集團及一家旅遊櫃檯營辦商（統稱「有關各方」）。他們促成兩間互為競爭對手的旅遊服務供應商——錦倫旅運有限公司（「錦倫」）及 *Tink Labs Limited*（「*Tink Labs*」）之間的合謀安排。

競委會調查發現，錦倫與 *Tink Labs* 於 2016 至 2017 年期間，協議訂定他們在香港多間酒店內銷售的旅遊景點門票及車票的價格。有關各方擔當著「促成者」的角色，在該兩名競爭對手之間傳達定價資料，協助落實該合謀定價安排。競委會有合理因由相信，上述安排具有損害在香港的競爭之目的，違反了《競爭條例》（「條例」）的「第一行為守則」。

在違章通知書中，有關各方承認違反《條例》，並承諾採取實質措施，以提升其業務之競爭合規水平。

這是競委會首次向促成合謀行為的企業追究法律責任。這帶出了一個重要訊息：除合謀者本身外，任何第三方若促成互為競爭對手的企業之間的反競爭行為，亦可能要面對競委會的執法行動。



詳情見[違章通知書](#)、[新聞稿](#)及[常見問題](#)。

In February 2021, the Commission issued infringement notices to seven entities, including six hotel groups and a tour counter operator (“entities”), for facilitating a cartel arrangement between two competing travel service providers, namely *Gray Line Tours of Hong Kong Limited* (“Gray Line”) and *Tink Labs Limited* (“Tink Labs”).

The Commission found that between 2016 and 2017, Gray Line and Tink Labs agreed to fix the prices at which tourist attractions and transportation tickets were sold at various hotels in Hong Kong. The entities acted as facilitators by passing on pricing information between these two competitors in circumstances where they had actively contributed to the implementation of the price fixing agreement. The Commission has reasonable

cause to believe that the above arrangement had the object of harming competition in Hong Kong in contravention of the First Conduct Rule of the Competition Ordinance (“Ordinance”).

In the infringement notices, the seven entities admitted that they had contravened the Ordinance and committed to take concrete measures to effectively enhance competition compliance.

This is the first time the Commission pursues facilitators of cartel conduct, driving home the message that not only cartelists, but third parties who facilitate anti-competitive conduct between competing businesses may also be subject to the Commission’s enforcement action.



View the [Infringement Notices](#), [Press Release](#) and [Questions & Answers](#).

## 與菲律賓競爭委員會簽署諒解備忘錄 MoU with Philippine Competition Commission

競委會與菲律賓競爭委員會簽署諒解備忘錄，就相互關注的競爭事宜加強資訊交流與合作。備忘錄亦建立了平台，讓雙方以不同形式進行技術性合作，例如在人員培訓及研究方面的協作。兩家機構亦將設立指定聯絡員，以便定期互相交流並探討其他合作範疇。

詳情見[備忘錄](#)及[新聞稿](#)。

The Commission has signed a Memorandum of Understanding (MoU) with the Philippine Competition Commission to strengthen cooperation and the exchange of information between the two agencies on competition issues of mutual concern. The MoU also provides a platform for both agencies to engage in other forms of technical cooperation, such as staff training and research collaborations. Designated contact points will be established for regular dialogues as well as to explore other areas of collaboration.

View the [MoU](#) and [Press Release](#).



競委會主席陳家殷先生（左）與菲律賓競爭委員會主席 Arsenio Balisacan 先生簽署備忘錄。  
Mr Samuel Chan (left), Chairman of the Commission, signed the MoU with Chairman Arsenio Balisacan of the Philippine Competition Commission.



## 競委會推出「市場競爭 101」短片系列 促進公眾了解競爭的價值 Commission launches “Competition 101” video series to promote values of competition

為促進公眾了解競爭法背後的核心價值和理念，競委會推出了「市場競爭 101」短片系列，以輕鬆活潑、深入淺出的手法講解市場競爭的主要概念。短片系列的第一輯由港大經管學院房育輝教授主持，透過動畫和日常生活例子，解釋市場結構、壟斷市場、市場定義和合謀行為等經濟學概念，讓大眾掌握基礎知識，從而了解競爭法對社會的價值及意義。

競委會同時在其 @ 競爭「商」白線 Facebook 專頁舉辦「市場競爭 101」有獎問答遊戲，網民只要在觀看影片後答中有關問題、讚好／追蹤 Facebook 專頁並在相關帖文內標記兩位朋友，便有機會獲得競委會送出宣傳紀念品乙份。



為讓年青人及早明瞭公平競爭的重要性，競委會亦誠邀全港高中學生觀看影片並參與簡單的網上問答，了解競爭的概念。參與率最高及參加人數最多的學校將獲競委會頒發獎座。

觀看影片／立即玩 Facebook 有獎問答遊戲！

\* 「市場競爭 101」有獎問答遊戲只備中文版。宣傳紀念品先到先得，送完即止。

To promote public understanding and appreciation of the core values and rationale behind competition law, the Commission has launched the “Competition 101” video series to elaborate on the key concepts of market competition in a light-hearted and easy-to-understand manner. Presented by Professor Fong Yuk-fai of the HKU Business School and aided by animation as well as real-life examples, the first instalment of the series explains the economic concepts of *Market Structure*, *Monopoly*, *Market Definition* and *Collusion*, which are fundamental to the understanding of competition law and the value it brings to the community.

A “Competition 101 Challenge” was rolled out on the Commission’s [@DontCheatCompete Facebook page](#) in tandem and netizens are invited to watch the videos and answer questions about the concepts explained in each episode. Those who got the right answers, like/follow the Facebook page and tag two friends in the relevant posts may receive a souvenir from the Commission.

To facilitate an early grasp of the importance of fair competition among youngsters, the Commission is also inviting all upper secondary school students in Hong Kong to watch the videos and take a simple quiz to familiarise themselves with the competition concepts. Schools with the highest participation rate and the largest number of participants will receive an award from the Commission.



Watch the [videos](#) / Attempt the [Challenge](#) on Facebook!

\* The Challenge is conducted in Chinese and souvenirs are given out on a first-come-first-served basis.

## 「玩·PO·競」社交媒體宣傳挑戰賽 全面展開 “Post To Compete” Social Media Advocacy Challenge in full swing

超過 140 支本地大專院校學生隊伍，已報名參加競委會舉辦的「玩·PO·競」社交媒體宣傳挑戰賽，並提交了計劃書，介紹他們將如何推廣競爭法、以及該法例如何保障商界及消費者的利益。共 500 多名參賽者在一月底出席了由競委會代表、資深策略顧問羅永聰先生、網絡營銷達人吳培燊先生，以及內容創作與短片製作專家主講的網上工作坊，認識競爭法重點內容及網絡宣傳秘技。

15 支入圍隊伍將於 2021 年 4 月 7 日至 15 日期間於網上過招，在 Facebook、Instagram 及其他社交媒體平台以不同形式發放帖文，爭取瀏覽、讚好及分享的次數，甚至與觀眾互動，作出比拼。

請即讚好／追蹤 #玩Po競 [Facebook](#) 及 [Instagram](#) 專頁，密切留意最新消息！



Over 140 teams of students from universities and tertiary institutions in Hong Kong have signed up and submitted their proposals for the Commission's "Post to Compete" Social Media Advocacy Challenge to promote competition law and the benefits it brings to businesses and consumers. An online workshop was held in late January where over 500 participants learned the key concepts of competition law and tips on running successful social media campaigns shared by seasoned strategy consultant Mr Law Wing-chung, online marketing guru Mr Wesley Ng as well as content creation and video production experts.



From 7-15 April 2021, 15 finalist teams will execute their plans and compete online by publishing creative posts on Facebook, Instagram and other social media platforms, in different formats of their choice. They will battle by getting the most views, “likes”, shares or even interacting with the audience.

Like/Follow the #PostToCompete [Facebook](#) and [Instagram](#) and stay tuned!

## 本地及國際倡導工作 疫情期間繼續進行 Local and international outreach amidst pandemic

### 接觸本地公眾

在疫情下，競委會繼續積極與不同的持份者接觸。在 2020 年 12 月至 2021 年 2 月期間，競委會參加了民政事務總署在元朗、黃大仙及旺角舉辦的三場大廈管理簡介會；同時亦在房屋委員會於新入伙的公營房屋白田邨所舉辦的簡介會上，向屋邨的裝修承辦商講解《條例》內容。

這段期間，競委會亦舉辦了三場《競爭條例》網上講座，其中兩場重點講解合謀定價行為，對象為各界企業及採購界。

下一場《競爭條例》網上講座將於 2021 年 4 月 19 日舉行，[按此登記參加](#)。



## 國際交流

競委會以國際競爭規管網絡倡議工作小組聯席主席的身份，在 2021 年 2 月舉辦了一場推動建立守法文化的網上研討會。來自英國、美國、日本及香港的競爭法機構人員與跨國公司的法律顧問，就如何推動企業遵守競爭法，分享經驗及專業意見。是次活動得到 110 多名來自 46 個司法管轄區及多間國際組織的參加者鼎力支持。

## Local outreach

The Commission carried on its momentum to actively engage its stakeholders across the community despite challenges posed by the pandemic. Between December 2020 and February 2021, representatives of the Commission participated in three briefings on building management organised by the Home Affairs Department in Yuen Long, Wong Tai Sin and Mong Kok. A presentation was delivered at the pre-intake briefing organised by the Housing Authority for decoration contractors at new public housing Pak Tin Estate.

In addition, the Commission organised three webinars on the Competition Ordinance during the period, of which two were focused on price fixing targeting businesses in general as well as the procurement sector.

The next webinar on the Competition Ordinance will be held on 19 April 2021, click [HERE](#) to register.

## International activity

As the co-chair of the International Competition Network's Advocacy Working Group, the Commission organised a webinar on fostering a compliance culture in February 2021. Officials from competition authorities of the UK, US, Japan and Hong Kong as well as in-house counsels from multinational companies shared their experiences and expert views on promoting competition compliance among businesses. The event received immense support with over 110 participants from 46 jurisdictions and international organisations joining.