



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

2016 年 6 月至 10 月期間，競爭事務委員會（競委會）各方面的工作進展良好。繼 5 月發布對樓宇維修及翻新市場的研究結果後，競委會隨即展開了自去年 12 月全面運作以來的首次大型宣傳活動，藉此加強社會對圍標這問題的意識，並宣揚如何辨識及防止圍標。

在履行對競爭事宜提供意見的職能方面，競委會於 9 月初發布了首份意見公告，就促進公共屋邨液化石油氣供應市場的競爭發表建議。我們將繼續積極審視公眾關注的議題，就競爭事宜向政府提供意見。

9 月中，競委會就若干定期班輪協議公布建議集體豁免命令，現正進行有關諮詢工作。這是競委會發出的首個建議命令，公眾及其他有意申請集體豁免的人士，可從中了解競委會作出有關決定的準則及考慮因素。

我們亦繼續與各界持分者接觸，出席不同會議、舉辦講座，並合辦了一場聚集多位英國與本地知名講者的專題討論。在國際層面，競委會派代表出席了數個地區性及國際性的反壟斷會議，這些會議提供了寶貴的機會，讓我們能掌握國際最新發展及最佳做法，以及向海外的同類機構學習，確保有效執法。

The period of June to October 2016 has seen good progress in many aspects of the Competition Commission's (Commission) work. After the release of the results of our market study into the building maintenance and renovation market in May, we launched our first major publicity campaign since full operations commenced last December to raise community awareness of bid-rigging and to educate about how to detect and prevent bid-rigging.

In carrying out our advisory function on competition matters, we published our first advisory bulletin in early September summarising our recommendations to improve the competitiveness of the supply of liquefied petroleum gas to public housing estates. The Commission will continue to proactively consider issues of public concern and make recommendations to the Government on competition matters.

In mid-September, we published our proposed block exemption order for certain liner shipping agreements which is currently in consultation. Through this first proposed order, members of the public and potential applicants for block exemptions will have a better understanding of the Commission's criteria and considerations in reaching its decisions on block exemptions.

We continue to reach out to our stakeholders through meetings, seminars and a panel discussion featuring a strong line-up of speakers from the United Kingdom and Hong Kong. Internationally, representatives of the Commission have participated in several regional and international antitrust conferences during the period. These are valuable opportunities for us to keep abreast of best international practices and to learn from our counterpart agencies to ensure effective enforcement.

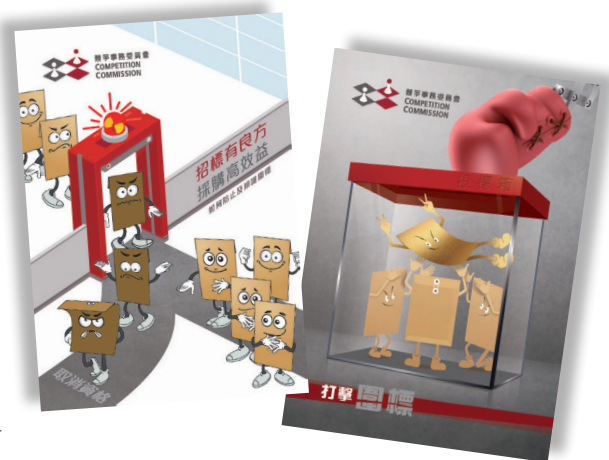


韋樂思 Rose Webb
行政總裁 Chief Executive Officer

競委會多管齊下 呼籲全城打擊圍標

Commission's call to fight bid-rigging cartels through a multi-pronged campaign

近年來，不時有傳媒報導及其他資料指出，住宅樓宇翻新及維修行業圍標猖獗，導致業主須承擔高昂的維修費，或無奈忍受質素差劣的工程。競委會對該市場若干範疇在《條例》全面生效前的情況進行了研究，並於 2016 年 5 月發表有關結果。研究結果與公眾普遍的想法吻合，顯示近年香港住宅樓宇翻新及維修市場，存在著操縱投標的行為（[按此](#)瀏覽報告內容）。研究結果除有助競委會決定日後的調查重點外，亦反映出有需要加強這方面的倡導及教育工作。



在香港，任何採用招標程序的市場及行業，均有可能出現合謀圍標。為加強社會對這方面的意識、教育大眾辨識及防止圍標，競委會在多個平台展開《打擊圍標》的宣傳活動，這是競委會自《條例》於去年 12 月全面生效以來的首個大型宣傳活動。

宣傳活動以一段電視宣傳短片揭開序幕，另有兩本小冊子同步推出，當中簡介常見的圍標形式，並為採購人員提供貼士，協助他們加強招標程序。競委會亦製作了一系列教育短片及電台廣播劇，並配合廣泛的網上及戶外宣傳，希望市民能更易掌握有關訊息。相關資料及教材已上載於[競委會網站](#)。

為進一步宣揚反圍標的訊息，競委會於 5 月至 6 月期間，在香港四個主要地點舉行了巡迴展覽，並於 8 月向全港超過 15,000 個住宅及商用物業的業主立案法團廣發活動宣傳海報。在 7 月 13 日及 9 月 6 日，競委會舉辦了兩場打擊圍標的講座，參加者包括採購從業員、物業管理公司及業主。此外，我們亦參與各民政事務處舉辦的多項活動，包括舉辦研討會及工作坊，以及協辦大廈管理比賽及展覽。





In recent years, time and again we had media reports and other sources suggesting the residential building renovation and maintenance sector was rife with bid-rigging activities, which caused homeowners to pay more than they should have for repair works or have to put up with poor quality work. In view of these concerns, the Commission undertook a study into certain aspects of the market as it operated prior to the Ordinance coming into full effect and published its findings in May 2016. The overall result of the study is consistent with the widespread concern that bid-manipulation practices were prevalent in the local residential building renovation and maintenance market in the recent past (click [here](#) for the report). Besides guiding the Commission's future investigations, the results also reinforced the need to advocate and educate the public on the topic.

Bid-rigging cartels can occur in any market or sector in Hong Kong where tender processes are used. To raise community awareness as well as to educate about how to detect and prevent bid-rigging cartels, the Commission launched a multi-pronged "Fighting Bid-rigging Cartels" Campaign (Campaign) as its first major advocacy initiative since the Ordinance came into full effect in Hong Kong last December.



The Campaign was kick-started with a TV announcement and two brochures outlining common types of bid-rigging and tips for procurement officers to strengthen tendering process. A series of educational videos and radio programmes were produced and broadcast to facilitate easy understanding of these messages. The Campaign was also supported by extensive online and outdoor advertising to enhance public awareness. These materials are available on the [Commission's website](#).



To further reach out to the community, a Roving Exhibition on the topic was staged at four key locations in Hong Kong in May and June. In August, publicity posters of the Campaign were sent to the owners' corporation of over 15,000 residential and commercial properties in Hong Kong. Two seminars on fighting bid-rigging cartels targeting different audiences including procurement practitioners, property management companies and property owners were held on 13 July and 6 September to spread the message. The Commission has also supported initiatives by a number of District Offices in raising community awareness of bid-rigging. This support includes conducting seminars and workshops on effective tendering and participating in building management competitions and exhibitions.

競委會發布首份公告 就液化石油氣供應提供意見

Commission publishes first advisory bulletin on liquefied petroleum gas supply

現時在本港 15 個由香港房屋委員會（房委會）管理的公共屋邨中，管道液化石油氣（管道石油氣）的供應安排被認為缺乏競爭，情況備受關注。有見及此，競委會履行其職能，公布了一系列建議，就當中的競爭事宜向政府提出意見，希望促進這市場的競爭。

競委會審閱了房委會提供的資料及其他公開資料，認為現時不經競爭過程便延續原有供應商合約的做法，有利於原有供應商，並減低為居民爭取更佳條款及更好服務的機會。房委會應考慮在批出其後合約的過程中引入競爭，而是否與原有供應商續約，抑或採用具競爭的程序，有關屋邨的居民亦應參與決定。

競委會在其網站發布了一份[意見公告](#)，進一步闡述這些觀點及建議，歡迎公眾人士閱覽。

競委會將繼續積極審視公眾關注的議題，向政府及公營機構就如何在不同的市場促進競爭提出建議，為社會的長遠利益作出貢獻。



The perceived lack of competition in respect of the current Piped Liquefied Petroleum Gas (Piped LPG) supply arrangement in the 15 public rental housing estates under the management of the Hong Kong Housing Authority (HKHA) has been a subject of concern. In light of this, the Commission has exercised one of its functions of advising the Government on competition matters by publishing a series of recommendations with an aim to improve competition in this market.

After reviewing the relevant information provided by the HKHA, as well as other information in the public domain, the Commission is of the view that the current practice of renewing incumbent suppliers' contracts instead of conducting a competitive process favours such incumbents and reduces the possibility of obtaining better terms and services for the residents concerned. The HKHA should consider

introducing a competitive process to determine the award of subsequent contracts and the residents of these estates should be involved in deciding whether subsequent contracts should be awarded to incumbent suppliers or whether a competitive process should be followed.

Interested parties are welcome to refer to the [advisory bulletin](#) on the Commission's website which further elaborates the Commission's views and recommendations on the subject.

The Commission will continue to proactively consider issues of public concern and make recommendations to the Government and public bodies on how to advance competition in different markets for the longer term benefit of the community.



宣傳及倡導 Advocacy & Outreach

競委會宣傳短片於 Questar Awards 中勇奪多個獎項 Commission's publicity and advocacy videos won Questar Awards



競委會的「《競爭條例》全面生效」電視宣傳短片、「合謀」教育短片及「競爭有道」電視短片系列，於 Questar Awards 2016 中勇奪多個獎項，包括「非牟利機構組別」最高榮譽。Questar Awards 旨在表揚私營及公營界別的最佳視像傳訊作品，比賽着重超凡的創意、表達技巧及手法，以及作品的原創性。今年第 21 屆的 Questar Awards 共收到接近一百份來自全球的參賽作品。

The Commission's "Competition Ordinance is now in full effect" TVC, educational video on "Cartel" and "Compete with Integrity" TV Series scooped a number of accolades in the Questar Awards 2016 including a Grand Winner in the "Non-Profit Organisations" category. The International Questar Awards celebrate and reward the best in visual

communications in both private and public sectors. The program symbolises the stellar qualities of creativity, craft, innovation and originality. In its twenty-first year, the Questar Awards had nearly 100 entries received worldwide.



「香港競爭法體制的回顧與前瞻」專題討論

Panel discussion on the review and prospect of Hong Kong's competition regime

9月21日，競委會與英國駐港總領事館合辦了「香港競爭法體制的回顧與前瞻」專題討論，來自本港及英國的講者陣容強大，包括英國御用大律師 Richard Gordon、競委會行政總裁及多名法律界代表，各講者對建立有效的競爭法制度，及就新成立的競爭監管機構所面對的挑戰，分享了獨到的見解。

The Commission and the British Consulate-General co-organised a Panel Discussion on "Review of the Hong Kong Competition Regime and the Way Forward" on 21 September. A strong line-up of speakers from Hong Kong and the UK including Richard Gordon QC, the CEO of the Commission and representatives from the legal sector shared their unique perspectives on the development of an effective competition regime and the challenges faced by young competition regulators.



宣傳及倡導 Advocacy & Outreach

持續與持分者接觸

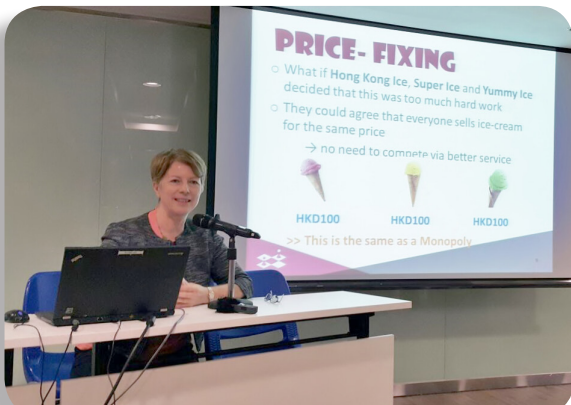
Ongoing stakeholder engagement

競委會其中一項主要的工作，是向公眾及商界宣揚競爭為香港經濟帶來的好處，推動各界了解《條例》，加強守法意識。2016年6月至10月期間，競委會參與了43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。

競委會的年報是我們與公眾及持分者保持溝通的重要渠道。[2015/16年報](#)剛已發表，競委會於該年度正式展開執法工作，年報中詳述了競委會在這一重要一年的各項工作，並將年內的重要事件一一記錄。

The Commission has an ongoing role to inform the Hong Kong public and businesses about the benefits of competition to the Hong Kong economy and the need for them to be aware of and to comply with the Ordinance. Between June and October 2016, the Commission participated in 43 engagement meetings and seminars with various stakeholders including legislators, different trade associations and public bodies.

The Commission's Annual Report is an important and effective tool of communication with the public and its stakeholders. The [Annual Report 2015/16](#) has just been published with a detailed review of the Commission's work and major milestones in this important year in which it has settled into its law enforcement role.



競委會繼續透過會議及研討會接觸持分者。
The Commission continues to engage with various stakeholders through meetings and seminars.

國際交流活動 International Activities

九月初，競委會行政總裁率領代表出席於南韓首爾舉行的「第九屆首爾國際競爭論壇」，以及「第12屆東亞競爭法首長級官員會議」。於「首爾國際競爭論壇」上，一眾講者圍繞不同的競爭事宜進行討論，包括資料交換、網上平台運作市場的最惠國待遇條款，以及售後服務市場的競爭事宜等。於「東亞競爭法首長級官員會議」，東亞地區16個競爭機構的代表互相交流意見，分享各個司法管轄區的最新發展及趨勢，以及在跨境執法與合作方面所遇到的挑戰。

2016年9月20日，「第十屆喬治城全球反壟斷執法研討會」在美國華盛頓舉行，不少知名專家及多個司法管轄區的競爭機構首腦雲集，討論反壟斷法的最新事宜。競委會主席胡紅玉女士擔任全球執法者組別的講者，在致辭中回顧了競委會運作初期的執法工作，並談及程序公義、行業研究及司法管轄區互相合作的事宜。

同月，競委會經濟師參加了國際競爭規管網絡於加拿大溫哥華舉辦的「首席/高級經濟師工作坊」。為期兩日的工作坊設有四大主題：單邊效應分析、數碼市場的縱向限制、合謀行為的篩選，及合併的補救方法。每個主題均由一位經濟學者負責講解，各競爭當局則作案情簡介。是次會議提供了難得的機會，讓香港向其他司法管轄區汲取知識與經驗，獲益良多。

Representatives of the Commission including the CEO attended the 9th Seoul International Competition Forum and the 12th East Asia Top Level Officials' (EATOP) Meeting on Competition Policy in Seoul, Korea in early September. Speakers at the Seoul International Competition Forum discussed competition issues such as information exchange, most favoured nation clauses in online platform markets and competition issues in the aftermarket. At the EATOP Meeting, 16 competition agencies from East Asia exchanged views on the recent developments and trends in their jurisdictions and the challenges of cross-border enforcement and cooperation.

The 10th Georgetown Antitrust Enforcement Symposium was held on 20 September 2016 in Washington DC, where leading professionals and top international competition officials gathered to discuss the current issues in the antitrust arena. As a speaker on the Global Enforcers Panel, Chairperson of the Commission Ms Anna Wu gave a review of the Commission's early enforcement work and discussed procedural fairness, sector inquiries and cooperation among jurisdictions.

In the same month, an economics professional from the Commission participated in the International Competition Network's Workshop for Chief/Senior Economists in Vancouver, Canada. The two day workshop covered four main topics: unilateral effects analysis, vertical restraints in digital markets, screening for cartels and merger remedies. Each topic featured a presentation by an academic economist and case presentations by competition authorities. The conference was a great success and an outstanding opportunity for Hong Kong to benefit from the knowledge and experience of other jurisdictions.



最新動態 Current & upcoming activities

定期班輪協議的建議集體豁免命令 現正進行諮詢

Consultation on the proposed block exemption order for certain shipping liner agreements

就香港定期班輪協會對船舶共用協議（Vessel Sharing Agreement）及自願討論協議（Voluntary Discussion Agreement）所作出的集體豁免命令申請（是次申請），競委會於 2016 年 9 月 14 日公布了建議的決定，各界人士可於 2016 年 12 月 14 日或之前，就有關建議向競委會作出申述。

競委會對是次申請作出了初步評估，並在考慮到船舶共用協議所帶來的經濟效率後，建議對該類定期班輪協議發出集體豁免命令。但前提是必須符合以下所有條件：

- 船舶共用協議的訂約方合共擁有的市場佔有率不超過 40%；
- 船舶共用協議並無認可或要求船運公司從事合謀行為；及
- 船運公司必須有權在給予合理時間的通知後自由退出船舶共用協議，而無須接受處罰。

競委會初步認為，自願討論協議並不符合提升整體經濟效率的協議的豁免條件，因此並不建議就此類定期班輪協議發出集體豁免命令。

競委會於年初就是次申請進行了前期諮詢，期間收到不同持份者的意見。這些人士的意見有助競委會得出其建議的決定。

建議集體豁免命令、初步意見陳述書（主要解釋競委會所建議的決定）及提交申述的方法，已上載於競委會[網站](#)，歡迎瀏覽。在考慮諮詢期間所收到的申述後，競委會將會對是次申請作出最終決定。

On 14 September 2016 the Commission issued its proposed decision in respect of the Hong Kong Liner Shipping Association's application (Application) for a block exemption order (BEO) covering both vessel sharing agreements (VSAs) and voluntary discussion agreements (VDAs). The Commission now invites interested parties to make representations to the Commission about the proposed decision by 14 December 2016.

The Commission is proposing to issue a BEO for VSAs as a result of its preliminary assessment of the Application and in light of the economic efficiencies generated by this category of agreement. The proposed BEO is subject to the following conditions:

- The parties to the VSA do not collectively exceed a market share threshold of 40%;
- The VSA does not authorise or require shipping lines to engage in cartel conduct; and
- Shipping lines must be free to withdraw from the VSA without incurring a penalty on giving reasonable notice.

The Commission does not propose to issue a BEO for VDAs as it has formed the preliminary view that this category of liner shipping agreement does not fall within the scope of the exclusion for agreements enhancing overall economic efficiency.

The views of various stakeholders submitted during the preliminary consultation on the Application early this year assisted the Commission in reaching the proposed decision.

The proposed BEO, a Statement of Preliminary Views outlining the Commission's reasons for its proposed decision and details on how to make a representation are available on the Commission's [website](#). A final decision on the Application will be made after the Commission has considered any representations received during the consultation.

最新動態 Current & upcoming activities

競委會將參展國際中小企博覽

Commission to participate in World SME Expo



競委會將於 12 月 1 日至 3 日參與香港貿易發展局主辦的「國際中小企博覽」，透過展板、教育短片、刊物及互動遊戲，協助商界（特別是中小企）認識《條例》及了解如何防止圍標發生。歡迎各界人士前往香港會議展覽中心展覽廳 1E（C21 攤位）參觀。

The Commission is going to participate in the World SME Expo to be held on 1-3 December by the Trade Development Council with display panels, educational videos, brochures and interactive games to help businesses, especially SMEs, understand the Ordinance and how to prevent bid-rigging cartels. Visit us at booth C21 at Hall 1E of the Hong Kong Convention and Exhibition Centre to learn more about the new law.

亞洲競爭論壇 12 月初舉行

Asian Competition Forum to be held in early December



Asian Competition Forum

Innovation, Creativity, Technology: The Impact of Competition Law in Asia

「第 12 屆亞洲競爭論壇」將於 12 月 5 日至 6 日在金鐘統一中心舉行。一眾來自本地及其他國家的學者、講師、大型科技公司及律師屆時將聚首討論競爭法與科技創新的相互關係，覆蓋的議題包括濫用市場權勢、涉及競爭法的知識產權，以及科技領域的監管對競爭的窒礙，同時亦會探討亞洲市場的科技競爭是否受到阻礙這個重要問題。有關報名詳情，請[按此](#)。

The 12th Asian Competition Forum will be held on 5-6 December at the United Centre, Admiralty. Bringing together academics, lecturers, large technology companies and lawyers from Hong Kong and other jurisdictions, this year's focus will be on the interaction between competition law and technological innovation. The topics of abuse of market dominance, Intellectual Property Rights in relation to competition law and technology regulations' effect on stifling competition will be broadly discussed with the overarching question of whether competition in technology is stifled within the Asian market. Click [here](#) for registration details.

競爭法學堂 Competition Law Classroom

何謂合謀圍標？

樓宇維修行業的圍標問題一直是香港的一個熱門話題。翠湖花園一案的被告人被成功檢控，帶出了一個強烈的訊息，參與樓宇翻新及維修工程的人士，應避免涉及圍標行為。

事實上，所有採用招標程序的市場均有可能出現圍標。當兩個或以上的投標者作出協議（通常是秘密進行），同意不會互相競爭以取得某特定項目，便屬於圍標。常見的圍標形式包括：

- 抑制投標 — 一名或多名競爭對手協定不投標或撤回已遞交的標書
- 掩護式投標 — 某些投標者同意出價高於預設中標者，或提出吸引力稍遜（或招標者不會接受）的條件
- 輪流中標 — 競爭對手協定在一連串的合約中輪流中標
- 競爭對手協定不競投或作掩護式投標，藉此向預設中標者換取分判合約
- 投標者協定最低出價，或由中標者付款予「落敗投標者」作為補償

根據《競爭條例》，合謀圍標屬嚴重反競爭行為，競委會會率先對這類行為進行調查及執法。歡迎各位瀏覽競委會的「打擊圍標 全城目標」資訊中心，了解如何辨識及防止圍標發生。

What is a bid-rigging cartel?

Bid-rigging in the building maintenance industry has been one of the hot topics in Hong Kong. The successful prosecution of the defendant in the Garden Vista case recently drives home the message that participants in building renovation and maintenance projects should steer clear of bid manipulation practices.

In fact anti-competitive bid-rigging (i.e. bid-rigging cartels) can occur in any market where tender processes are used. It happens when two or more bidders agree (usually in secret) that they will not compete with one another for particular projects. Common types of bid-rigging cartels include:

- Bid suppression – one or more competitors agree not to bid, or withdraw a bid submitted previously
- Cover bidding – certain bidders agree to submit bids with higher prices or less attractive (or unacceptable) terms than the bid of the designated winner
- Bid rotation – competitors agree to take turns to win in a series of contracts
- Competitors agree not to bid or to submit a cover bid in exchange for subcontracts with the designated winner
- Bidders agree on minimum bidding prices or that the winning bidder will make a payment to compensate the “losing” bidders

Under the Competition Ordinance, bid-rigging cartels are serious anti-competitive conduct which the Commission accords priority to in its investigations and enforcement. Visit the Commission's "[Fighting Bid-rigging Cartels](#)" Information Centre on how to detect and prevent bid-rigging cartels.

