

## 《競爭條例》全面生效六周年 Commission marks 6<sup>th</sup> anniversary of full commencement of Competition Ordinance

競委會於2021年12月14日舉行記者會，迎接《競爭條例》（《條例》）全面生效六周年。

自《條例》全面生效以來，競委會共有12宗個案達致不同的執法結果，其中九宗入稟競爭事務審裁處（審裁處），涉及各類型的合謀行為及濫用相當程度市場權勢。這九宗案件共涉及47名答辯人，而在審裁處已審理的五宗案件之中，競委會均獲得勝訴。

審裁處亦已在四宗案件頒下罰則，命令答辯人支付罰款及競委會的訟費，以及發出取消董事資格令。

競委會在另外三宗個案採用了非訴訟方式處理，包括接受有關人士作出的承諾，及發出違章通知書，迅速解決及糾正了案情較輕的競爭事宜。

踏入全面運作的第七年，競委會在貫徹其整體執法重點的同時，會特別關注以下三方面：

- i. 影響民生（特別是低收入或基層市民）的反競爭行為；
- ii. 騙取公帑或政府資助的合謀行為；及
- iii. 涉及數碼經濟的個案。

另外，競委會正與香港電台聯合製作一連5集電視實況劇，首次將香港競爭法個案改編搬上熒幕。該劇預計於2022年3月播出，請密切留意！

詳情見[新聞稿](#)。

The Commission marked the 6<sup>th</sup> anniversary of full commencement of the Competition Ordinance (Ordinance) on 14 December 2021 with a press conference held on the occasion.

Since full commencement of the Ordinance, a total of 12 cases have reached different enforcement outcomes, among which 9 cases encompassing cartels and abuse of substantial market power were brought before the Competition Tribunal (Tribunal). These 9 cases involved a total of 47 respondents and the Commission has gained success in all 5 cases already ruled by the Tribunal.



（左起）競委會行政總監（政策及倡導事務）胡德英先生、主席陳家殷先生、行政總裁畢仲明先生及行政總監（行動）郭恩澤先生。

(From left) Mr. Billy Woo, Executive Director (Policy & Advocacy), Mr. Samuel Chan, Chairman, Mr. Rasul Butt, Chief Executive Officer, and Mr. Jindrich Kloub, Executive Director (Operations) of the Commission.

The Tribunal has also handed down judgments on sanctions in 4 cases, ordering respondents to pay fines and the Commission's legal cost, and issuing a director disqualification order.

Separately, the Commission has swiftly resolved and rectified competition concerns of less serious nature in 3 cases using non-litigation remedies including accepting commitments from the parties concerned and issuing infringement notices.

Entering the 7<sup>th</sup> year of its full operation, the Commission will pay particular attention to 3 areas while also maintaining its general enforcement focus. These include:

- i. Anti-competitive behaviours which affect people's livelihood, especially low income or grass-root groups;
- ii. Cartels that aim to take advantage of government funding or subsidy schemes; and
- iii. Cases involving the digital economy.

On another front, the Commission is partnering with RTHK to produce its first-ever docudrama TV series showcasing the first few competition cases in Hong Kong. The 5-episode TV series is expected to be launched in March 2022. Stay tuned!



View [Press Release](#).

## 競委會入稟清潔服務合謀案

### Commission files cleansing service cartel case in Tribunal

2021年12月14日，競委會在審裁處向香港工商清潔服務有限公司（香港工商）、民順清潔有限公司及該兩間公司的三名董事展開法律程序。

競委會公布的案情指出，該兩間公司就提交予香港房屋委員會（房委會）的17份標書交換商業敏感資料，有關招標涉及房委會管理的公共屋邨及其他大廈的清潔服務，合約總額約1.8億港元。競委會有合理理由相信有關行為構成合謀定價，違反《條例》。

競委會向審裁處申請以下命令：宣布所有答辯人違反或牽涉入違反《條例》的「第一行為守則」、施加罰款、向該三名人士發出取消董事資格令、向所有答辯人收取競委會的相關費用，及禁止該兩間公司日後從事相同行為。

競委會調查人員於香港工商的辦公室執行法庭的搜查令期間，有人試圖刪除相關電子證據，競委會已將該妨礙調查的行為交予警方作刑事調查。

詳情見[新聞稿及背景資料](#)。

On 14 December 2021, the Commission commenced proceedings in the Tribunal against two companies, namely Hong Kong Commercial Cleaning Services Limited (HKC) and Man Shun Hong Kong & Kln Cleaning Company Limited, as well as three individuals, who are the directors of the respective companies.



It is the Commission's case that the two companies exchanged commercially sensitive information in relation to 17 tenders submitted to the Hong Kong Housing Authority (HA) for the procurement of cleansing services for public housing estates and other buildings under HA's management, with a total contract amount of around HK\$180 million. The Commission has reasonable cause to believe that such conduct amounts to price fixing in contravention of the Ordinance.

Remedies sought by the Commission include a declaration that each party has contravened the First Conduct Rule of the Ordinance or involved in the contravention, pecuniary penalties, director disqualification orders against the individuals, orders for the recovery of the Commission's costs, and an order restraining the two companies from engaging in the same conduct in future.

During the course of the Commission's execution of a search warrant at HKC's office, certain individuals had tried to delete relevant electronic evidence and the Commission has referred this obstruction of its investigation powers to the Police for criminal investigation.

View [Press Release & Factsheet](#).

## 入信機合謀案 — 將根據《合作及和解政策》全面解決 Mail inserter cartel case to be fully settled under Cooperation & Settlement Policy

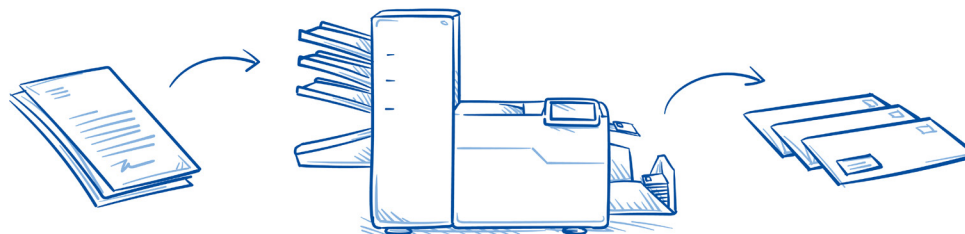
2021年11月25日，競委會入稟審裁處，就三間業務實體在香港銷售入信機時涉嫌合謀定價、瓜分市場及圍標，展開法律程序。它們分別是 Quadient Technologies Hong Kong Limited（前稱 Neopost Hong Kong Limited）與 Quadient International Supply Limited（前稱 Neopost International Supply Limited）（統稱「Neopost」）、凸版資訊（香港）有限公司及 Smartech Business Systems (Hong Kong) Limited。

在競委會展開調查後，有關業務實體按照競委會的《合作及和解政策》，開始與競委會合作，即時終止有關的反競爭行為，並配合競委會調查，以及加強各自的競爭合規計劃。競委會遂同意與有關業務實體達成協議，並共同向審裁處申請下列命令，以在雙方同意下處理這宗訴訟：

- 宣布有關業務實體違反了「第一行為守則」；
- 對有關業務實體施加罰款，款額如下（已計算合作扣減率）：
  - ◆ Neopost：1,399,000 港元
  - ◆ Smartech：808,000 港元
  - ◆ 凸版香港：3,372,000 港元
- 向有關業務實體收取競委會的調查費用及訟費。

詳情見[新聞稿](#)。

On 25 November 2021, the Commission commenced proceedings in the Tribunal against 3 undertakings, namely Quadiant Technologies Hong Kong Limited (formerly Neopost Hong Kong Limited) and Quadiant International Supply Limited (formerly Neopost International Supply Limited) (collectively “Neopost”), Toppan Forms (Hong Kong) Limited, and Smartech Business Systems (Hong Kong) Limited, for alleged price-fixing, market sharing and bid-rigging regarding the sale of mail inserters in Hong Kong.



After the Commission commenced its investigation, the undertakings began cooperating with the Commission pursuant to the Commission’s Cooperation and Settlement Policy. By the undertakings ceasing the relevant anti-competitive conduct, facilitating the Commission’s investigation, and enhancing their respective corporate competition compliance programmes, the Commission agreed to enter into cooperation agreements with the undertakings which resulted in the submission of joint applications to the Tribunal seeking orders to allow the proceedings to be disposed of by consent, including:

- declarations that the undertakings have contravened the First Conduct Rule;
- orders for the following pecuniary penalties to be imposed on the undertakings, after applying a cooperation discount:
  - ◆ Neopost: \$1,399,000
  - ◆ Smartech: \$808,000
  - ◆ Toppan HK: \$3,372,000
- orders for the recovery of the Commission’s costs of investigation and proceedings.

View [Press Release](#).

## 競委會發表與「承諾」有關的政策

### Commission publishes Policy on "Commitments"

競委會已發表與《競爭條例》第60條「承諾」（承諾）有關的政策（政策），闡明競委會處理承諾的做法及程序。

根據《條例》第60條，競委會可接受某方作出採取或不採取任何行動的承諾，以釋除其對某行為可能違反競爭守則\* 的疑慮。如競委會接受承諾，則不會就該承諾所涵蓋的事宜展開或繼續調查，以及不會在審裁處提起或繼續法律程序。

競委會在決定接受承諾是否恰當的補救措施、以及建議的承諾能否適當地釋除競爭疑慮時，會考慮以下因素：

- 行為的嚴重程度
- 該承諾釋除競爭疑慮的能力
- 該承諾是否可有效履行及監察
- 嚴重程度因素及補救目標
- 提出承諾的一方所展露的真誠
- 時間方面的考量

政策亦列明了承諾程序的重要步驟。詳情見[政策](#)。

The Commission has published a policy on commitments under section 60 (Commitments) of the Competition Ordinance which sets out the Commission's practice and procedure in respect of such Commitments (Policy).

Under section 60 of the Ordinance, the Commission may accept a Commitment from a party to take any action, or refrain from taking any action, that the Commission considers appropriate to address its concerns about a possible contravention of a competition rule\*. If the Commission accepts a Commitment, it will not commence or continue any investigation or proceedings before the Tribunal regarding the matters addressed by the Commitment.

When deciding whether a Commitment is an appropriate remedy and whether a proposed Commitment is appropriate to address its competition concerns, the Commission will consider the following factors:

- Seriousness of the conduct
- Ability to address competition concerns
- Effective implementation and monitoring
- Severity Factors & Remedial Goals
- Good faith of the party offering the Commitment
- Timing considerations

The Policy also illustrates the key steps in the Commitment process. View [Policy](#).



\* 競爭守則包括《條例》的第一行為守則、第二行為守則及合併守則，而本政策只適用於就可能違反第一及第二行為守則的行為所作出的承諾。

*The competition rules comprise the first conduct rule, the second conduct rule and the merger rule in the Ordinance. The Policy applies with respect to Commitments regarding possible contraventions of the first conduct rule and the second conduct rule only.*

## 首個秋季培訓課程反應熱烈

### Debut Autumn Academy receives overwhelming response



競委會與香港中文大學法律學院於2021年11月13、17及18日合辦了首個網上競爭法秋季培訓課程。培訓課程由傑出法律學者、資深競委會人員及具豐富競爭法經驗的私人執業律師主講，涵蓋《競爭條例》的主要內容及其實務應用、合規事宜及中國內地反壟斷法的最新發展。是次活動有超過600名律師、合規人員及商界代表參與，反應熱烈。

另外，競委會將於2022年1月6日為商界及公眾舉辦《競爭條例》網上講座，名額有限，請從速[報名](#)！

The Commission co-organised its first online Autumn Academy on Competition Law and Policy with the Law Faculty of the Chinese University of Hong Kong on 13, 17 and 18 November 2021. Delivered by distinguished legal scholars, senior staff from the Commission and veteran competition lawyers in private practice, this course covered key elements and practical applications of the Competition Ordinance, compliance matters and the recent development of Mainland China's Anti-monopoly Law. The academy received overwhelming response from over 600 lawyers, compliance practitioners and business representatives.

Separately, the Commission is conducting a general webinar on the Ordinance for businesses and the public on 6 January 2022.

[Sign up](#) now before it's full!



## 競委會榮獲申訴專員嘉許獎及香港管理專業協會最佳年報獎 Commission scores Ombudsman Award and HKMA Best Annual Report Award

競委會競爭事務主任（情報、法證及寬待事務）吳梓寬先生獲頒2021年申訴專員嘉許獎—公職人員獎，以表揚其處理投訴及查詢時的專業精神。

另外，競委會的2019/20年報在香港管理專業協會舉辦的「2021最佳年報獎」比賽中，從82份參賽作品中脫穎而出，獲得「優秀小型機構年報獎」。該年報憑著出色的的展望及前瞻性的敘述，獲得評審嘉許。

另外，競委會的2020/21年報經已出版，可[按此](#)瀏覽。



2021年申訴專員嘉許獎  
2021 Ombudsman Award

Mr Danny Ng Tsz-foon, Competition Affairs Officer (Intelligence, Forensic & Leniency) of the Commission, was honoured with the 2021 Ombudsman Award for Officers of Public Organisations in recognition of his professionalism in handling complaints and enquiries.

Competing against 82 entries, the Commission's Annual Report 2019/20 won the "Excellence Award for Small Size Entries" in the 2021 Best Annual Report Awards organised by the Hong Kong Management Association. The Report was commended for its outstanding indications of prospects and forward looking statements.

Meanwhile, the Annual Report for the financial year 2020/21 has been published. Click [HERE](#) to view.



2019/2020年報在香港管理專業協會舉辦的「2021最佳年報獎」中獲獎  
Annual Report 2019/2020 won in  
HKMA's 2021 Best Annual Report Awards



2020/2021 年報  
Annual Report 2020/2021

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