

## 安樂機電就合謀案承認法律責任 同意支付一億五千萬港元罰款 ATAL Building Services admits liability in cartel cases and agrees to pay a penalty of HK\$150 million

競爭事務委員會（競委會）於2022年11月宣布，在空調工程合謀案件的訴訟中被列為答辯人的安樂機電設備工程有限公司（安樂機電），同意承認法律責任，並已按照競委會的《為從事合謀行為之業務實體而設的合作及和解政策》，與競委會訂立合作協議。其兩名員工亦同意承認法律責任，並跟競委會達成合作協議。



根據合作協議，雙方將共同向競爭事務審裁處（審裁處）申請多項命令，包括宣布答辯人違反或牽涉入違反《競爭條例》（《條例》）的第一行為守則；對安樂機電施加一億五千萬港元的罰款<sup>1</sup>；及向業務實體答辯人收取競委會的調查費用及訟費。

以上申請須經審裁處作出決定。

詳情見[新聞稿](#)。

The Competition Commission (Commission) announced in November 2022 that ATAL Building Services Engineering Limited (ABS), a respondent in proceedings regarding alleged cartel conduct in the supply of air-conditioning works in Hong Kong, has agreed to admit liability and entered into a cooperation agreement with the Commission under the Commission's *Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct*. Its two employees have also agreed to admit liability and entered into separate cooperation agreements with the Commission.

This will result in the submission of joint applications to the Competition Tribunal (Tribunal), seeking orders including declarations that the respondents contravened or were involved in the contravention of the First Conduct Rule of the Competition Ordinance (Ordinance); an order that ABS shall pay a pecuniary penalty of HK\$150 million<sup>1</sup>; and orders for the recovery of the Commission's costs of investigation and legal proceedings.

The applications will be determined by the Tribunal at a later date.

View [Press Release](#).

<sup>1</sup> 按照競委會於2020年6月發布的《建議罰款的政策》計算。  
Calculated in accordance with the Commission's Policy on Recommended Pecuniary Penalties published in June 2020.

## 競委會參與香港仔魚類批發市場的聯合行動

### Commission participates in joint operation at Aberdeen Wholesale Fish Market

競委會於11月底，參與由香港警務處統籌、在香港仔魚類批發市場展開的聯合行動，行動另有五個政府部門參與，包括漁農自然護理署、食物環境衛生署、香港消防處、入境事務處及海事處。

競委會早前接獲投訴，指該批發市場內，有批發商在訂定海鮮批發價時，涉嫌合謀定價，違反《條例》下的「第一行為守則」。競委會於行動中搜集與個案相關的資料，包括以問卷方式，向超過30間魚類批發商的從業員了解情況。



競委會呼籲，任何漁業從業員或市民如可就個案或有關行為提供資料，請盡快與競委會聯絡。

詳情見[新聞稿](#)。

The Commission participated in a joint operation at the Aberdeen Wholesale Fish Market in late November organised by the Hong Kong Police and which involved five other government departments including the Agriculture, Fisheries and Conservation Department, the Food and Environmental Hygiene Department, the Fire Services Department, the Immigration Department and the Marine Department.

The Commission has received a complaint earlier alleging that wholesalers in the Fish Market engaged in price fixing when selling fisheries products, in contravention of the First Conduct Rule under the Ordinance. During the operation, the Commission sought information relating to the case and surveyed practitioners from over 30 wholesalers at the Fish Market.

The Commission calls on fisheries practitioners and members of the public who can provide information on the case or the practices in the industry to contact the Commission.

View [Press Release](#).

## 競委會接納七間私家車分銷商移除私家車保用限制的承諾

### Commission accepts commitments by seven car distributors to remove car warranty restrictions

競委會已接納了七間私家車分銷商<sup>2</sup>提出的承諾，過往施加於17個私家車品牌車主的車輛保用限制，已徹底移除。

<sup>2</sup> 該七間私家車分銷商分別為 *Cartel Motors Limited*、大昌行集團有限公司、*Inchcape International Holdings Limited*、錦龍汽車集團有限公司、意美汽車（香港）有限公司、森那美汽車集團（香港）有限公司及宏益控股有限公司。

該等承諾涵蓋的17個私家車品牌包括：奧迪、寶馬、雪鐵龍、福特、本田、積架、起亞、Land Rover、凌志、萬事得、MINI、三菱、日產、富士、鈴木、豐田及Volkswagen。



競委會的調查涵蓋眾多於香港經營的私家車分銷商及旗下品牌，調查發現該七間分銷商施加了保用限制，規定不論保養或維修項目是否在保用範圍內，顧客均須將私家車送往特約維修中心保養及 / 或維修。若顧客不跟從，便需承擔保用失效的風險。

有關限制被移除後，當車輛需要保養或進行不屬於保用範圍的維修時，私家車車主可選擇光顧獨立車房，而無需承擔不在特約維修中心檢修而引致保用失效的風險。這做法將有助促進獨立車房與特約維修中心平等競爭，最終或能令保養及維修費用下降。

該等承諾已於2022年10月10日起生效，為期五年。

[按此](#)瀏覽詳情。

The Commission has accepted commitments offered by seven car distributors<sup>2</sup>, resulting in the complete removal of car warranty restrictions previously imposed on car owners of 17 passenger car brands.

The 17 passenger car brands covered by the commitments include: Audi, BMW, Citroen, Ford, Honda, Jaguar, KIA, Land Rover, Lexus, Mazda, MINI, Mitsubishi, Nissan, Subaru, Suzuki, Toyota and Volkswagen.

The Commission's investigation, which covered a wide range of car distributors and brands operating in Hong Kong, revealed that the abovementioned seven distributors have imposed warranty restrictions requiring maintenance and/or repair services to be carried out at authorised repair centres, regardless of whether those items were covered by the warranty. Customers who did not comply would risk having their warranties becoming invalid.

With the removal of the restrictions, passenger car owners now enjoy the choice of taking their vehicles to independent car repair workshops for maintenance services or non-warranty repairs, without the risk of having their warranty voided on the basis that their car was not serviced or repaired at an authorised repair centre. This will in turn facilitate a level-playing field for the independent workshops to compete with authorised repair centres, which may ultimately lower prices for maintenance and repair services.

The commitments have come into effect on 10 October 2022 and will remain in force for a period of five years.

Click [HERE](#) for more information.

<sup>2</sup> The seven car distributors are Cartel Motors Limited, Dah Chong Hong Holdings Limited, Inchcape International Holdings Limited, Kam Lung Motor Group Limited, Motor Image (HK) Limited, Sime Darby Motor Group (HK) Limited, and Vang lek Holdings Limited.

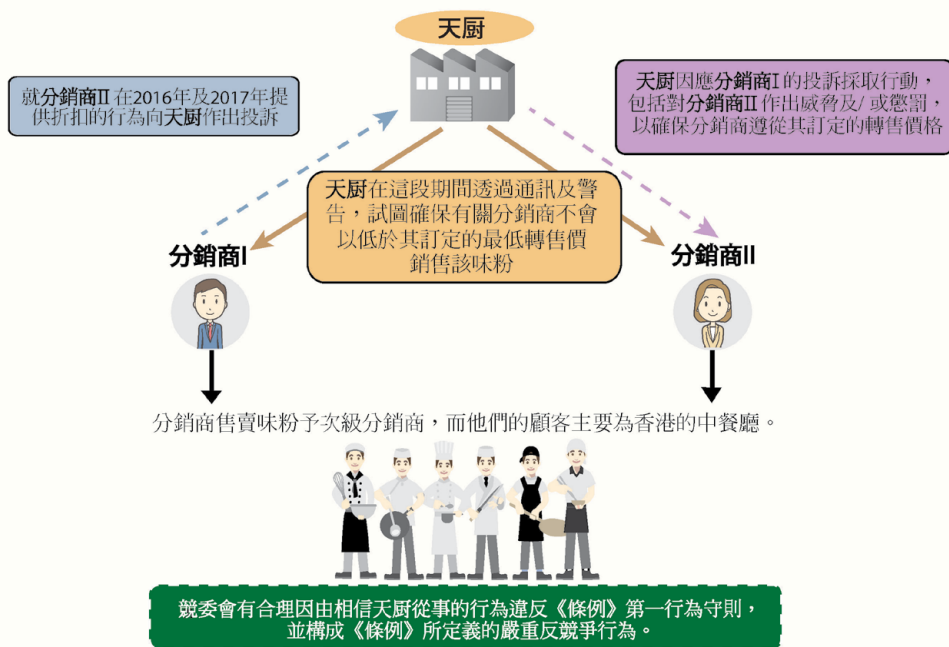
# 競委會入稟香港首宗操控轉售價格案件

## Filing of Hong Kong's first resale price maintenance case in Tribunal

### 案情摘要

#### 競委會公布的案情

天厨<sup>[1]</sup> 在2015年12月14日《競爭條例》全面生效後，至最少2017年9月27日期間，繼續執行始於2008年的操控轉售價格安排，訂定其兩個主要本地分銷商銷售味粉<sup>[2]</sup> 的最低轉售價。



[1] 天厨即香港天厨有限公司。

[2] 味粉即一箱五包各4.54公斤的佛手牌味粉，是天厨生產的一種味精粉未產品。

競委會於2022年9月15日，就香港首宗操控轉售價格案件入稟審裁處，向香港天厨有限公司（天厨）展開法律程序。

操控轉售價格是指供應商訂定分銷商（包括零售商）在轉售有關產品時，需要遵守的固定或最低轉售價格。由於相關行為妨礙分銷商或零售商之間以較低價格互相競爭，因此往往會損害市場競爭。

競委會公布的案情指出，天厨在2015年12月14日《條例》全面生效後，至最少2017年9月27日期間，從事操控轉售價格的行為，訂定其兩個主要本地分銷商銷售粉狀味精產品的最低轉售價。天厨透過發出通知、提醒及警告，以確保分銷商不會以低於指定價格銷售其味粉。當其中一間分銷商投訴另一分銷商以較低售價爭奪顧客時，天厨作出跟進行動，採取制約措施、作出威脅及/或懲罰，以確保分銷商遵從其訂定的轉售價格。

詳情見[新聞稿](#)、[案情摘要](#)及[常見問題](#)。

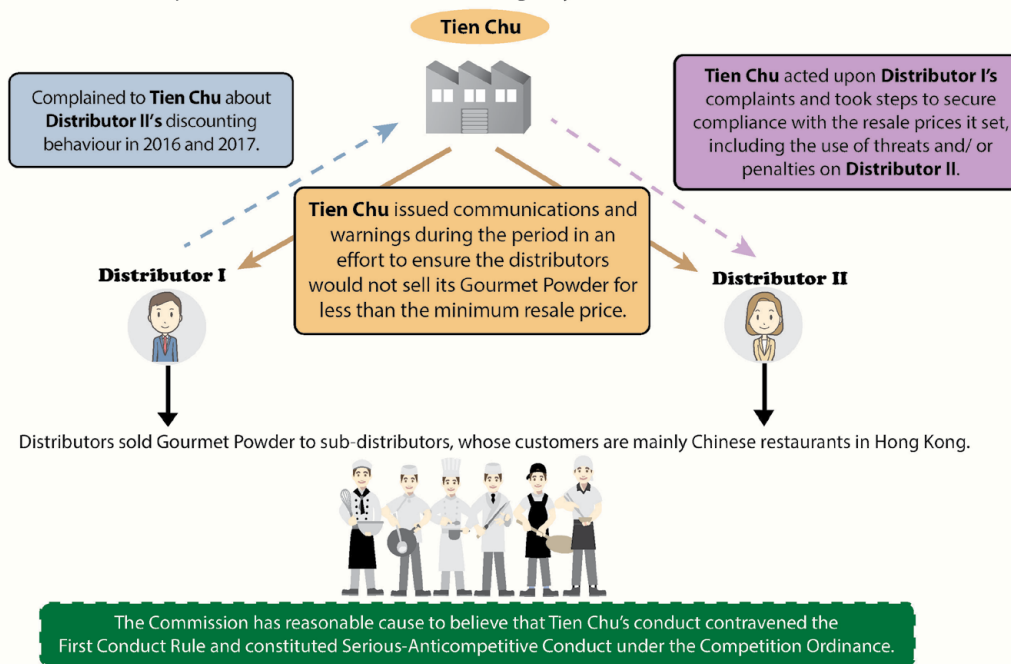
On 15 September 2022, the Commission brought Hong Kong's first case of resale price maintenance (RPM) before the Tribunal against The Tien Chu (Hong Kong) Company Limited (Tien Chu).

RPM occurs whenever a supplier establishes a fixed or minimum resale price to be observed by its distributors, including retailers, when they resell the product. RPM prevents distributors or retailers from competing with each other by offering lower prices, which will result in harm to competition in many cases.

## Case Summary

### The Commission's Case

Since the Competition Ordinance came into full effect on 14 Dec 2015 until at least 27 Sep 2017, Tien Chu<sup>[1]</sup> continued to engage in **Resale Price Maintenance (RPM)** arrangements, which began in 2008, by imposing minimum resale prices for its Gourmet Powder<sup>[2]</sup> to be charged by its two main local distributors.



[1] Tien Chu refers to The Tien Chu (Hong Kong) Company Limited.

[2] Gourmet Powder refers to Finger Citron Ve-Tsin Gourmet Powder sold in 4.54kg packages (in boxes of five), which is a monosodium glutamate (MSG) powder product Tien Chu manufactured.

It is the Commission's case that since the Competition Ordinance came into full effect on 14 December 2015 until at least 27 September 2017, Tien Chu engaged in RPM by imposing minimum resale prices for its MSG powder product to be charged by its two main local distributors at the time. Tien Chu did so by issuing notices, reminders and warnings to ensure the distributors would not sell its MSG powder product for less than a particular price. When one of the distributors began to complain that the other distributor was snatching customers with lower pricing, Tien Chu acted upon the complaints and used disincentives, threats and/or penalties to secure compliance.

View [Press Release](#), [Case Summary](#) and [Q&A](#).

## 香港首套競爭法個案實況劇 火熱登場

### Watch Hong Kong's first docudrama on competition law cases

香港首套競爭法個案電視劇—《競爭之合謀有罪》現已上載至競委會網站。

這套合共五集、與香港電台聯合製作的實況劇，乃改編自《條例》在2015年12月全面生效後，競委會所處理的首批競爭法案件。劇集由陸駿光、余香凝、黃定謙及林千渟主演，四人飾演競委會調查員，於劇中調查四宗合謀案件，分別涉及圍標、合謀定價及瓜分市場。



乘著該劇集播放，競委會主席、管理層及主要人員於9月至10月期間一連五星期，出席了商業電台雷霆881節目《人民大道中》接受訪問。

[按此](#)收看實況劇。

[按此](#)收聽電台訪問。



Hong Kong's first docudrama series on competition law cases, *COMPETE: Cartel Hunters*, is now available for viewing on the Commission's website.

Co-produced with RTHK, this five-episode series is an adaptation of the first batch of competition law

cases handled by the Commission since the Ordinance came into full effect in December 2015. Starring Alan Luk Chun-kwong, Jennifer Yu Heung-ying, Himmy Wong Ting-him and Angel Lam Chin-ting as the Commission's investigators, the series takes the audience through the investigation of four cartel cases involving bid-rigging, price fixing and market sharing.

Riding on the docudrama, five special segments on Commercial Radio FM 88.1 programme "Our Way Out" were rolled out in September and October, featuring interviews with the Commission's Chairman, Executives and key personnel.

Watch the series (*Chinese version*) [HERE](#).

Listen to the radio segments (*in Cantonese only*) [HERE](#).

## 競委會修訂個人寬待政策

### Commission revises leniency programme for individuals involved in cartel conduct

競委會修訂了其寬待政策，以提供更清晰指引及更大誘因，鼓勵個別人士停止牽涉入合謀行為，並向競委會舉報。主要修訂如下：

1. 寬待申請將按競委會是否已對該行為展開初步評估或調查，清楚分為兩類。在這項修訂下，**首名**屬於以下其中一類，並符合所有寬待條件的人士，將可獲得寬待：

**第一類：**向競委會舉報其牽涉入的合謀行為，而競委會在收到舉報時**尚未**就該行為展開初步評估或調查；**或**

**第二類：**就競委會已經展開評估或調查的合謀行為，向競委會的調查及之後的執法行動提供**重大**協助。

2. 即使在同一個案中已有業務實體獲得寬待，首名向競委會舉報合謀行為的個人仍有機會獲得寬待。

競委會不會就寬待協議所涵蓋的行為，對成功申請寬待的人士展開任何法律程序，包括不會尋求審裁處作出命令宣布該名人士牽涉入違反《條例》下的競爭守則。

[按此](#)瀏覽個人寬待政策的修訂版。

The Commission has revised its leniency programme to offer clearer guidance and enhanced incentives for individuals to cease their involvement in cartel conduct and report to the Commission. The major revisions are:



1. Creating a distinction between applications for leniency based on whether they are received before or after the Commission has commenced initial assessment of or investigation into the conduct. With this revision, leniency is available for the **first individual** who either:

**Type 1.** discloses his/her involvement in cartel conduct of which the Commission has **not** commenced an initial assessment or investigation, **or**

**Type 2.** provides **substantial** assistance to the Commission's investigation and subsequent enforcement action of cartel conduct which the Commission is already assessing or investigating;

and meets all the requirements for receiving leniency.

2. Opening up the possibility of leniency for the first individual who reports a cartel to the Commission, even if leniency has already been granted to an undertaking in the same case.

The Commission will not commence proceedings before the Tribunal against a successful leniency applicant in relation to the conduct covered by the leniency agreement, including not seeking an order declaring that the applicant is involved in the contravention of a competition rule under the Ordinance.

Click [HERE](#) for the revised leniency policy for individuals.

## 競委會就僱主共同與僱員組織協商僱傭事宜 發表意見公告 Commission advises on employers' joint negotiations with employee bodies on employment matters

2022年8月，競委會發表意見公告，就《條例》如何適用於僱主共同與僱員組織協商僱傭事宜（共同協商）時的行為，提供相關指引。

由於共同協商的過程可能涉及僱主之間達成協議，或分享與僱傭條件有關並影響競爭的敏感資料，因此可能會引起《條例》下的競爭問題。

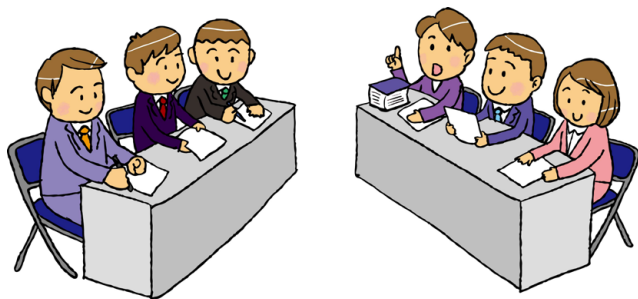
然而，競委會在留意到共同協商可能為僱員帶來更佳的僱傭條件，並考慮了其本身的執法優次後，較早前發表公告，闡明若基於相關行業的特性，而具充分理由進行共同協商，並符合以下條件，競委會目前沒有打算就僱主們進行該等協商時的行為展開調查或採取執法行動：

- (i) 該行為的目的是改善相關僱傭條件，包括維持有關僱傭條件；及
- (ii) 在共同協商的過程中，僱員組織是真正的參與者。

以上取態適用於僱主的兩類行為：(1)在綜合了共同協商的結果後，僱主團體向成員發出薪酬建議，及(2)僱主之間在預備或進行共同協商時，分享未來的薪酬意向，而這是預備或進行有關協商時所必須的。

僱主們必須注意，凡不符合上述條件並引起競爭問題的行為，競委會均會展開調查。僱主應主動審視其共同協商的做法，以確保符合《條例》的規定。

[按此](#)瀏覽意見公告及常見問題。



In August 2022, the Commission published an Advisory Bulletin to provide guidance on how the Ordinance applies to the conduct of employers in the context of their joint negotiations with employee bodies on employment matters.

As the process of joint negotiations and its results may involve agreements or the sharing of competitively sensitive information regarding employment conditions between employers, it may give rise to competition concerns under the Ordinance.

Noting the benefits joint negotiations may have on improving employment conditions for employees, and considering its enforcement priorities, the Commission clarified that it has **no** current intention to pursue an investigation or enforcement action as regards certain conduct by employers in the context of joint negotiations, provided that the need for such negotiations is justified given the industry characteristics and:

- (i) the purpose is to improve, which could include maintaining, relevant employment conditions; and
- (ii) an employee body is a genuine participant in the joint negotiation process.

The above would apply to two types of conduct by employers, namely (1) the issuance of compensation recommendations by groups of employers to their members which incorporate the results of joint negotiations with employee bodies, and (2) the sharing of expectations about future compensation between employers, in preparation for or in the course of joint negotiations, if necessary for that purpose.

Employers are reminded that the Commission does intend to investigate practices which do not meet the above conditions and raise competition concerns, and they should actively review their approach to joint negotiations and ensure compliance with the Ordinance.

Click [HERE](#) for the Advisory Bulletin and FAQ.



## 競委會榮獲傑出董事獎及申訴專員嘉許獎

### Commission garners Directors of the Year Award and Ombudsman Award

競委會獲香港董事學會頒發「2022年度傑出董事獎」，以表揚其良好機構管治及卓越董事實務；同時亦憑藉其來自不同範疇、強大而平衡的委員組合，榮獲「董事會多元化卓越嘉許」。

另一方面，競委會競爭事務主任（調查）袁浚傑先生亦獲頒2022年申訴專員嘉許獎—公職人員獎，以肯定其處理投訴時的專業精神。



The Commission has won the Directors of the Year Award 2022 organized by the Hong Kong Institute of Directors, in recognition of its good corporate governance and outstanding director practices. It also received a Special Recognition for Excellence in Board Diversity for having assembled a strong and balanced mix of Members from different fields.

Meanwhile, Mr Yuen Tsun-kit, Competition Affairs Officer (Investigations) of the Commission, was honoured with the Ombudsman's Award 2022 for Officers of Public Organisations in recognition of his professionalism in handling complaints.

## 本地及國際倡導工作 疫情期間繼續進行

### Local and international outreach continues amidst pandemic

#### 接觸本地公眾

競委會於2022年9月舉辦了秋季培訓課程 2022：內地《反壟斷法》網上研討會，介紹內地《反壟斷法》的最新發展。研討會由兩位來自國家市場監督管理總局的高層人員，以及上海交通大學的傑出法律學者主講，吸引了逾350名律師、企業代表、學者、大學生、以及來自公營界別的人士參與。



期內，競委會亦舉辦了一場網上講座，向700多名商界代表及公眾人士講解《條例》，並參加了八場活動，接觸不同的持分者。

下一場《競爭條例》網上講座（以廣東話進行）將於2023年1月12日舉行，請[按此](#)登記。



2022年9月，競委會參加了在菲律賓馬尼拉舉行的第17屆「東亞競爭法首長級官員會議」及第14屆「東亞競爭法及競爭政策會議」，會議由亞洲開發銀行研究所、菲律賓競爭委員會及日本公平貿易委員會主辦。競委會行政總裁畢仲明先生在會議上，就公共採購方面的競爭問題，與來自東亞及東南亞競爭法執法機構的高層人員及競爭法學者交流。

會議期間，畢先生亦到訪菲律賓競爭委員會進行官式訪問，並與該會主席Johannes Benjamin R. Bernabe進行會談。

### *Local outreach*

The Commission organised the *Autumn Academy 2022: Webinar on Mainland's Anti-monopoly Law* in September 2022 to introduce the latest developments in Anti-monopoly Law in the Mainland. Delivered by two senior officials from the State Administration for Market Regulation and a distinguished legal scholar from Shanghai Jiao Tong University, the webinar was attended by over 350 lawyers, business representatives, academics, university students and those from the public sector.

During the period, the Commission also hosted a webinar to present the Ordinance to over 700 representatives from businesses and members of the public, and participated in eight engagement events targeting different stakeholders in Hong Kong.

The next webinar on the Ordinance (*in Cantonese*) will be held on 12 January 2023. Click [HERE](#) to register.

### *International Outreach*

In September 2022, the Commission participated in the 17th East Asia Top Level Officials' Meeting on Competition Policy and the 14th East Asia Conference on Competition Law and Policy hosted by the Asian Development Bank Institute, the Philippine Competition Commission, and Japan Fair Trade Commission in Manila, the Philippines. As one of the panellists, the Commission's Chief Executive Officer, Mr. Rasul Butt, exchanged views on the competition issues arising from public procurements with other senior officials of competition agencies and competition law scholars from East and Southeast Asia.

On the sidelines of the conference, Mr. Butt paid an official visit to the Philippine Competition Commission and held discussions with its Chairman, Mr. Johannes Benjamin R. Bernabe.