

Competition Commission welcomes quick rectification by Hong Kong Newspaper Hawker Association on retail price of branded cigarettes

The Competition Commission (Commission) today (31 May) welcomes the quick action by the Hong Kong Newspaper Hawker Association (Association) to withdraw the letter it sent to its members recommending a retail price of certain branded cigarettes as well as a related notice on its social media platform.

It came to the Commission's attention lately that the Association issued a notice to its members to increase the price at which they sold certain branded cigarette products. It was apparent to the Commission, after consultation with the Newspaper Hawker Association and specific newspaper hawker members, that a number of newspaper hawkers were following this price.

As the Commission has made public in its Guidelines, Enforcement Policy and *The Competition Ordinance and Trade Associations* brochure, the Commission considers that if associations fix or recommend the prices at which their competing members should sell products, the association and its members are likely to be engaging in serious anticompetitive conduct and contravening the Competition Ordinance. Individual business should not agree the prices at which they sell products, nor should trade associations fix prices on their members' behalf.

On 24 May 2016, the Commission met with a representative of the Association to express its concern.

After the meeting, the Association withdrew its letter and price recommendation, including immediately withdrawing the notice from its social media platform. On 26 May 2016, the Association sent a letter to its members informing them that the Association had withdrawn its recommended retail price of the branded cigarettes and reminding its members that they should individually determine the price they charge for products they sell.

According to the Commission's *Enforcement Policy*, the Commission gives enforcement priority to price fixing and other forms of cartel conduct. However, the same policy notes that the Commission's response will be proportionate to the circumstances of the specific case. Noting that the conduct was public, in apparent ignorance of the law, and the Association responded swiftly to rectify the concerned conduct, the Commission is not proposing to take any further action in this case.

However, this decision is based on the specific facts of this case. Undertakings big and small and trade associations are reminded that they must observe the requirements of the Competition Ordinance.

With the Competition Ordinance coming into full effect, trade associations such as the Association play a very important role in helping their members comply with the new law.

31 May 2016