



競爭快訊

Competition Matters

第 8 期 Issue No.8 1/2019



競爭事務委員會
COMPETITION
COMMISSION

行政總裁的話 Message from CEO

新年快樂！

除舊迎新之際，正好讓我們回顧競委會 2018 年第四季的工作。9 月初，競委會就第三宗案件入稟競爭事務審裁處，這亦是競委會首次起訴涉案的個別人士。這案件帶出了一個訊息，就是不論公司，或是個人，只要從事合謀行為，就要預期承擔後果。在 10 月中旬，競委會因應銀行業界於 2017 年 12 月提交的申請，首度就《銀行營運守則》公布決定。

這期間特別值得一提的是，競委會首屆國際會議—「香港競爭集思匯 2018」，於 11 月圓滿舉行。該項盛事吸引了逾 300 名本地及全球各地人士聚首一堂，深入探討了多個重要及熱門的競爭議題。為了延續知識的分享和交流，競委會於會議開幕禮上啟動了一個全新的網上平台，除了提供有關競爭法及競爭政策的豐富資訊外，亦期望藉此聯繫競爭界的各持份者。

在倡導工作方面，競委會向來重視與公營界別的溝通。競委會於 9 月為公共機構人員舉辦了一系列培訓，以加強他們對競爭法的了解，並認識競爭概念與其日常工作的關係。在公眾教育方面，特別是針對年輕一代，競委會首次推出微電影《不能瓜分的愛》。這齣短片在不同的網上平台播放，至今已累積超過 110 萬人次觀看。

展望 2019 年，我們的專業團隊將努力不懈，在促進及維護競爭方面，繼續擔當關鍵角色，讓香港市民體會到競爭的好處。我對此充滿信心，亦衷心期待各界繼續支持競委會的工作。

Happy 2019!

There is no better way to kick off the new year than to sum up the work of the Competition Commission in the final quarter of 2018. In early September, the Commission brought its third case before the Competition Tribunal in which we have, for the first time, brought enforcement action against individuals involved in the conduct, driving home the message that not only companies, but also individuals who engaged in anti-competitive conduct may expect to face consequences for their actions. In mid-October, the Commission published its first Decision on the Code of Banking Practice in response to an application received from the banking industry in December 2017.

What deserves particular mention during the period is the *Hong Kong Competition Exchange 2018*, the first-ever international conference hosted by the Commission in November. Gathering under one roof over 300 participants locally and from around the world, the event opened up insightful dialogues and debates on important and trending competition issues. To sustain the exchange and sharing, an online portal offering a wealth of resources on competition law and policies was launched at the event, in the hope of connecting stakeholders in the competition sector on the internet.

Engagement with the public sector is an important part of our advocacy work. The Commission organised a series of training sessions in September to enhance public officials' understanding of competition law and its relevance to their work. In its outreach to the general public in particular the younger generation, the Commission debuted its first micro-film, *A Conspiracy of Love*, which has to date recorded over 1.1 million views on different online platforms.

Looking into 2019, I have every confidence that the Commission, with a dedicated and hardworking team forming its backbone, will continue to play a key role in promoting and safeguarding competition for the benefits of everyone in Hong Kong. I look forward to your continuous support in this regard.



冼博崙 Brent Snyder
行政總裁 Chief Executive Officer

競委會就裝修工程合謀案件入稟審裁處

Renovation cartel case brought before Tribunal

2018年9月6日，競委會於競爭事務審裁處（審裁處）展開法律程序，指控三間裝修公司及兩名個別人士在新蒲崗景泰苑（由香港房屋委員會發展的資助房屋）提供裝修服務時，從事瓜分市場及合謀定價的行為。競委會尋求的罰則包括罰款、對其中一名涉案人士發出取消董事資格令，及宣布有關各方違反《競爭條例》下的第一行為守則。

本案是競委會首次對牽涉入反競爭行為的個別人士採取執法行動。這訴訟帶出一個具阻嚇力的訊息：不只是公司，即使是個人，只要從事合謀行為，就要預期面對法律的制裁。任何人士如懷疑有反競爭的情況出現，請致電 3462 2118 向競委會舉報；而已牽涉該等行為的人士，則應聯絡競委會申請寬待。

On 6 September 2018, the Commission commenced proceedings in the Competition Tribunal (“Tribunal”) against three renovation companies and two individuals for alleged market sharing and price fixing in relation to the provision of renovation services at King Tai Court in San Po Kong, a subsidised housing estate developed by the Hong Kong Housing Authority. Remedies sought by the Commission include pecuniary penalties, a director disqualification order against an individual and a declaration that each party has contravened the First Conduct Rule of the Competition Ordinance.

This is the first time the Commission has brought direct enforcement action against individuals who were involved in anti-competitive conducts. The proceedings drive home the deterrent message that not only companies but also individuals who engage in cartels may expect to face the full force of the law. Members of the public are encouraged to report suspected anti-competitive practices to the Commission at 3462 2118, and those already involved should approach the Commission for leniency.

「香港競爭集思匯 2018」圓滿舉行

Hong Kong Competition Exchange hailed great success



2018年11月1至2日，競委會成功舉辦了首屆「香港競爭集思匯 2018」國際會議。會議雲集了逾 300 名來自商界、法律界、政府部門、學術機構及海外競爭機構的代表，就競爭法及相關政策交流最佳做法、見解及經驗。

為期兩天的會議共設六個專題小組，深入探討了一系列重要及熱門的競爭議題，包括剖析競爭法案件的審裁、回顧香港的競爭法體系及中國《反壟斷法》的發展等。是次會議請來了全球知名法官、學者、法律界從業員、執法人員及商界領袖，從本港、地區以至國際層面，多角度分享真知灼見。

香港特別行政區行政長官林鄭月娥女士在賀辭中讚揚競委會在急速變化的營商環境中，就競爭法及政策適時創造了一個全新的交流平台。她強調，公平競爭向來是香港成功的基石之一，並樂見競委會的工作在社會上漸見成效。

「競爭集思匯 Competition Exchange」網上平台投入服務

為了進一步體現是次會議「聯繫—協作—培育」的精神，競委會推出了全新的「Competition Exchange」網上平台，匯集各地對不同競爭議題的見解、一系列實用工具及最新資訊。此一站式互動平台簡單易用，可為本地及世界各地對競爭議題感興趣的網民提供寶貴的資源。競委會亦歡迎各界參與，有興趣分享意見的人士，可電郵 enquiry@compcomm.hk 聯絡競委會。

[按此](#)瀏覽「Competition Exchange」網站。

The Commission's first-ever international conference, *Hong Kong Competition Exchange 2018*, was successfully held on 1-2 November 2018. Over 300 representatives from the business sector, the legal community, government departments, academic institutions and overseas competition agencies participated in the event where they shared best practices, insights and experiences on competition law and policy.

The two-day conference presented six panels on a range of important competition topics including adjudication of competition cases, a review of the Hong Kong competition regime and the development of China's Anti-monopoly Law. Speakers comprising globally renowned judges, academics, practitioners, enforcers and business leaders exchanged views not only from the Hong Kong standpoint, but also from regional and international perspectives.

In her congratulatory remark for the event, Mrs Carrie Lam, Chief Executive of the Hong Kong Special Administrative Region, commended the Commission for creating a new exchange platform on competition law and policies in a timely manner, amidst a rapidly changing business environment. Stressing that Hong Kong has long held fair competition as one of the cornerstones of its success, she said she was pleased to see the effects of the Commission's work felt across the city.



Launch of the Competition Exchange online platform

In keeping with the conference's mission to “Connect – Collaborate – Cultivate”, the Commission has launched a brand new “Competition Exchange” platform, a dedicated website aiming to host the latest thinking and a pool of practical tools and resources from different jurisdictions on various competition topics. With a user-friendly and interactive design, the platform serves as a valuable one-stop resource centre for local and international netizens interested in competition-related issues. We welcome your participation in this meaningful and exciting project. If you are interested in sharing your ideas and insights, please contact the Commission at enquiry@compcomm.hk.



To explore the website, please click [HERE](#).

競委會就《銀行營運守則》公布決定

Commission publishes Decision on Code of Banking Practice

2018年10月，競委會公布一項決定，確定《銀行營運守則》（《營運守則》）不會憑藉《競爭條例》下的「法律規定豁免」而獲豁免於第一行為守則之外。與此同時，由於競委會認同《營運守則》旨在促進銀行業界採用良好經營手法，在某些方面可令顧客受惠，故亦同時確認，目前並沒有打算就現行版本的《營運守則》展開進一步調查或採取執法行動。

競委會是項決定，是因應2017年12月收到14間《銀行業條例》下的認可機構（認可機構）所提交的申請而作出。《營運守則》是行業經營守則，內容關乎認可機構向本港私人客戶提供的服務，據稱屬自願性質，並非法定守則。

在作出決定的過程中，競委會仔細考慮了該項申請及收到的所有申述及意見。競委會亦發表了一份理由陳述書，載述作出該決定的理由。

[按此](#)瀏覽是項決定及理由陳述書。

The Commission published a Decision in October 2018 finding that the Code of Banking Practice (Code) is not excluded from the First Conduct Rule by the legal requirements exclusion in the Competition Ordinance. Recognising that the Code is intended to promote good banking practices that may benefit service users in particular ways, the Commission has at the same time confirmed that it has no current intention to pursue further investigative or enforcement action in respect of the present version of the Code.

The Decision was made in response to an application received in December 2017 from 14 institutions authorised under the Banking Ordinance (AIs). Stated to be voluntary and non-statutory, the Code is an industry code of practice relating to AIs' provision of banking services to private individuals in Hong Kong.

In reaching its Decision, the Commission has carefully considered the application as well as all of the representations and submissions received. A Statement of Reasons which sets out the reasons for its Decision was also published.

Click [HERE](#) to view the Decision and the Statement of Reasons.

宣傳及倡導 Advocacy & Outreach

競委會為公營界別提供培訓

Commission provides tailored training for public sector

9月3至5日，競委會為公營界別舉辦了一系列競爭法與政策工作坊，讓公營界別人員了解競爭法的基本原則及相關知識。逾200名來自20多個政府部門、公共機構及執法機關的高層人員出席了有關活動。

是次培訓講座由兩位世界知名的競爭法及政策專家主講，包括倫敦國王學院 Richard Whish 教授（御用大律師）及美國喬治華盛頓大學 William Kovacic 教授。



宣傳及倡導 Advocacy & Outreach

多個執法機構的人員出席了首兩日的培訓，內容聚焦於打擊合謀行為的執法工作，以及《競爭條例》與其他法例的相互關係。9月5日，來自多個政策局、政府部門及公共機構的官員參加了以競爭政策為主題的工作坊，探討在制定及執行公共政策及措施時，為何及如何顧及競爭。



To equip officials from the public sector with competition law and related knowledge, the Commission organised a series of tailored workshops on 3-5 September 2018. Over 200 senior officials from more than 20 government bureaux and departments, public bodies and law enforcement agencies attended the training.

The training was led by two of the world's leading competition experts – Prof Richard Whish QC from King's College London and Prof William Kovacic from George Washington University.

On the first two days, officials from different law enforcement agencies attended training sessions on enforcement against cartels and the interaction of the Competition Ordinance with other laws. On 5 September 2018, policymakers from government bureaux and departments as well as public bodies participated in a workshop on competition policy which focused on why and how officials should take competition into account when formulating and executing public policies and programmes.

競委會首度推出微電影《不能瓜分的愛》

Commission debuts micro-film *A Conspiracy of Love*

競委會在11月首度推出微電影《不能瓜分的愛》，並展開全城宣傳活動，以提升社會對瓜分市場及合謀定價兩大反競爭行為的認識，及該等行為對消費者及社會造成的損害。



這齣微電影由藝人鄭子誠及馬蹄露主演，以風趣幽默的手法，描述大學內四位最受歡迎的「女神」在不同學系「收兵」時，協議「瓜分市場」及「合謀定價」。故事情節取材自競委會2018年初舉辦的「玩·PO·競」社交媒體宣傳挑戰賽的冠軍作品。自微電影於各網上平台播出後，至今已累積超過110萬人次觀看。



[按此](#)收看微電影。

The Commission's first micro-film, *A Conspiracy of Love*, was launched in November 2018 with a city-wide publicity campaign to enhance public awareness of two serious anti-competitive conducts – market sharing and price fixing – and the harm they inflict on consumers and the society.

Featuring actors Timothy Cheng Tse-sing and Celine Ma Tai-lo, the hilarious storyline centres on four popular university girls colluding to “share market” and “fix price” when recruiting male followers from different faculties. The story is adapted from the winning entry of the ‘Post to Compete’ Social Media Advocacy Challenge, a tertiary education campaign organised by the Commission in early 2018. The micro-film has recorded over 1.1 million views on different online platforms.



Click [HERE](#) to watch the micro-film.

宣傳及倡導 Advocacy & Outreach

競委會年報榮獲傑出獎項

Commission's Annual Report wins "Excellence Award"

競委會的 2016/17 年報，在香港管理專業協會舉辦的 2018 最佳年報獎中，從 92 個參賽作品中脫穎而出，勇奪兩項殊榮，包括非牟利及慈善機構類別的「最優秀新參賽年報獎」，及「優秀小型機構年報獎」，大會讚揚該年報為持份者提供了一份內容詳實、表述清晰的年度總結。

此外，競委會 2017/18 財政年度的年報經已出版，全面回顧了年內各方面的工作。

[按此](#)瀏覽競委會 2017/18 年報。



Competing against 92 entries, the Commission's Annual Report 2016/17 was named "Best New Entry" in the non-profit-making and charitable organisations category and won the "Excellence Award for Small Size Entries" in the 2018 Best Annual Report Awards organised by the Hong Kong Management Association. The Report was recognised for its accurate, informative and well-presented account of the Commission's work to its stakeholders.

Meanwhile, the Annual Report for the financial year 2017/18 has been published with a detailed review of different areas of the Commission's work during the period.

Click [HERE](#) to view the Commission's Annual Report 2017/18.

持續與持份者接觸

Ongoing stakeholder engagement

競委會在 9 月與香港貿易發展局中小企服務中心合作，為企業（特別是中小企）舉辦講座。競委會亦參與了民政事務總署推出的「大廈管理中央平台」計劃，每月到各區向業主講解圍標議題。另外，競委會期內亦到訪多間中學及大專院校，舉辦了 4 場講座，持續與年青一代接觸。

In collaboration with the SME Centre of the Hong Kong Trade Development Council, the Commission organised a public seminar targeting businesses, particularly SMEs, in September 2018. The Commission also



宣傳及倡導 Advocacy & Outreach

took part in the Home Affairs Department's Central Platform on Building Management by conducting monthly briefings on the topic of bid-rigging for home owners in different districts. To continue engaging the younger generation, four school talks targeting secondary and university students had been conducted during the period.



國際交流活動 International Activities

2018年8月29至30日，在悉尼舉行的「東亞競爭法首長級官員會議」上，競委會行政總裁冼博崙先生在「國際合作及協調技術援助」的討論環節中擔任主持；而高級行政總監畢仲明先生則就競委會的宣傳倡導策略及計劃，分享有關經驗。

11月底，競委會主席胡紅玉女士率代表團赴巴黎出席「第17屆經濟合作與發展組織全球競爭論壇」。論壇上匯聚了全球過百機構及組織的競爭法人員，就重要及新興的競爭議題進行討論。在亞太競爭機構的會議環節中，畢仲明先生介紹了競委會建立專業團隊的過程，高級顧問 Timothy Paul Ker 先生則講述在調查競爭法案件時搜集證據的適當程序。

On 29-30 August 2018, the Commission's CEO Mr Brent Snyder moderated a panel discussion on international cooperation and coordination of technical assistance at the East Asia Top Level Officials' (EATOP) Meeting on Competition Policy in Sydney. On

the same occasion, the Commission's Senior Executive Director Mr Rasul Butt presented the Commission's advocacy strategy and initiatives.



高級行政總監畢仲明先生在「東亞競爭法首長級官員會議」中發言。

Senior Executive Director Mr Rasul Butt spoke at the East Asia Top Level Officials' Meeting on Competition Policy.



行政總裁冼博崙先生在「東亞競爭法首長級官員會議」的討論環節中擔任主持。

CEO Mr Brent Snyder moderated a panel discussion at the East Asia Top Level Officials' Meeting on Competition Policy.

In late November, a delegation led by Chairperson Ms Anna Wu participated in the 17th Organisation for Economic Cooperation and Development (OECD) Global Forum on Competition in Paris where over 100 authorities and organisations gathered to debate a wide range of key and emerging competition issues. At a meeting session of Asia-Pacific competition authorities, Mr Rasul Butt gave a presentation on "Capacity building in Hong Kong", and in a roundtable discussion, the Commission's senior advisor Mr Timothy Paul Ker talked about due process for evidence gathering in competition investigations.

競爭法學堂 *Competition Law Classroom*

人力資源界的潛在競爭風險（下）

僱主必須就招聘及僱傭條款作出獨立的決定，才能令人力資源市場體現有效的競爭。繼上一期所提供的例子後，今期再就另外兩種情況說明哪些慣常做法可能會出現問題。

工會的會員能否與其他會員交換有關薪金及福利的資料？

工會會員屬於僱員。競委會認為，僱員（有別於自僱獨資經營者）並非《條例》所指的業務實體，因此第一行為守則並不適用於工會會員。

有僱主試圖遊說其僱員同意自動離職，這意味著該僱員將主動放棄獲得遣散費的法定權益。同時，僱主保證該僱員將再獲另一間非關聯公司聘用，並擔任同一職位。此舉會否引起《條例》下的競爭問題？

只要該建議是由僱主獨立提出，就不會引起《條例》下的競爭問題。然而僱主保證該僱員將再獲另一間非關聯公司聘用並擔任同一職位，此做法或會引起競爭方面的問題，因為這可能顯示僱主與其他公司之間就聘用決定存在協調行為。

Potential competition risks for HR officers (Part 2)

For competition to be working effectively in the labour market, employers should make their decisions about hiring and the employment terms and conditions independently. Following the practical examples provided in the previous issue, here are two more scenarios to illustrate what common HR practices are potentially problematic.

Can members of a labour union exchange information related to salaries and benefits with each other?

Members of labour unions are employees. The Commission does not consider an employee (as distinct from a self-employed sole trader) to be an undertaking so they are outside the scope of the Ordinance.

An employer tries to persuade his employee to voluntarily resign, which means the employee will forgo any entitlements to severance pay. At the same time, the employer assures the employee that he will be re-employed in the same role at an unrelated company. Does this raise concerns under the Ordinance?

The employer's proposal that the employee agrees to voluntarily resign does not raise concerns under the Ordinance insofar as it was independently conceived. However, the employer's assurance that the employee will be re-employed in the same role at another company may raise competition concerns as it may suggest the existence of coordination between the employer and the other company as to their hiring decisions.

