

Questions and Answers

1. How was the case initiated?

The case was initiated as a result of a leniency application.

2. Apart from the seven recipients of the Commission's infringement notices, who else were involved in the case? What actions will the Commission take against the other parties involved and when?

As the Commission's investigation against other parties in this case is still ongoing, it would be inappropriate to comment on such matters.

3. What had the seven parties done in this case and why are they liable under the Competition Ordinance (Ordinance)?

Each of the seven parties passed requests and communications between two competing travel service providers, Gray Line and Tink Labs, that were aimed at aligning the prices of the tourist attractions and transportation tickets sold by the two providers at the premises of the concerned hotels.

While the seven parties themselves do not sell the relevant tickets, they have nevertheless actively contributed to the implementation of a price-fixing cartel between the two competing travel service providers, and as such, contravened Section 6 of the Ordinance (i.e. the First Conduct Rule).

4. Why did the Commission issue infringement notices instead of bringing proceedings against the seven parties in the Competition Tribunal (Tribunal)?

While the Commission is of the view that the Subject Arrangement amounts to Serious Anti-competitive Conduct under the Ordinance, it has decided to issue infringement notices to the Recipients in lieu of proceedings in the Tribunal having taken into consideration a number of factors. These include the nature of the Recipients' conduct as facilitators of the Subject Arrangement as well as their early and active cooperation with the Commission's investigation. The Commission considers the use of infringement notice as an enforcement outcome vis-à-vis these seven Recipients to be appropriate and proportionate to the circumstances in this case.

5. What is the role of an Independent Compliance Advisor (ICA) in the infringement notices?

The ICA will seek to identify the internal inadequacies of the Recipient's operations which gave rise to the Subject Arrangement, and to provide the Recipient with advice and propose rectifying measures to minimise their risk of engaging in similar anti-competitive conduct in future. The ICA will be required to produce a report to the Commission within six months of appointment and to produce two annual reports to the Commission regarding the status of implementation of its recommendations by the Recipient.

6. What is an Infringement Notice?

Section 67 of the Ordinance provides that the Commission may issue an Infringement Notice where it has reasonable cause to believe that there has been a contravention of the First Conduct Rule involving Serious Anti-competitive Conduct and/or the Second Conduct Rule.

In the Infringement Notice, the Commission will offer not to bring proceedings in the Tribunal on condition that the person under investigation makes a commitment to comply with the requirements of the notice within a specified compliance period. The requirements of an infringement notice may include, but are not limited to, the following requirements:

- a) to refrain from any specified conduct, or to take any specified action, that the Commission considers appropriate; and
- b) to admit to a contravention of the relevant conduct rule.

7. What if the person who made a commitment does not comply with the requirements of the Infringement Notice?

The Commission may begin proceedings in the Tribunal where it has reasonable grounds for suspecting that a person who made a commitment has failed to comply with any of the requirements of the Infringement Notice.

8. How many complaints / enquiries has the Commission received so far? How many are travel and tourism related? How many are on price fixing?

As at end of January 2021, the Commission had received over 4,700 complaints and enquiries and they are related to a wide variety of sectors, including the travel and tourism sector. Nearly 30% of the complaints and enquires received were on alleged cartel conduct.