

14 November 2023

For Immediate Release

Competition Commission takes estate agencies' price-fixing cartel case to Competition Tribunal

The Competition Commission (“Commission”) has today commenced proceedings in the Competition Tribunal (“Tribunal”) against one undertaking and five individuals, namely:

1. **Midland Realty International Limited** (“Midland Realty”), **Hong Kong Property Services (Agency) Limited** (“Hong Kong Property”) and **Midland Holdings Limited** (“Midland Holdings”) (collectively “Midland”);
2. **Ms. WONG Ching Yi Angela**, Deputy Chairman and Managing Director, an executive director and authorized representative of Midland Holdings (“Ms. Wong”);
3. **Mr. PO Siu Ming**, Chief Executive Officer – (Residential - Hong Kong & Macau) and Director of Midland Realty (“Mr. Po”);
4. **Mr. LEE Chung Yin**, Director – Hong Kong District of Midland Realty (“Mr. Lee”);
5. **Mr. CHEONG Tsz Chuen**, Chief Operation Officer – Kowloon and New Territories of Midland Realty (“Mr. Cheong”); and
6. **Mr. MA Tai Yeung**, Chief Executive Officer of Hong Kong Property (“Mr. Ma”).

It is the Commission’s case that, between December 2022 and March 2023, real estate agency Midland and its competitors Centaline Property Agency Limited and Ricacorp Properties Limited (collectively “Centaline”) agreed to fix the minimum net commission rate¹ for the sale of first-hand residential properties in Hong Kong at 2%, which effectively fixes or restricts the maximum level of rebate their frontline agents could offer to the purchasers of such properties. As rebate is an element that affects the price that a purchaser will ultimately pay for the relevant property, the Commission has reasonable cause to believe that such arrangements amount to serious anti-competitive conduct in the form of price fixing, and/or exchange of competitively sensitive information, in contravention of the First Conduct Rule of the Competition Ordinance.

Back in early January 2023, the Commission took note of media reports that four real estate agencies had issued internal memos in close timing with one another’s, directing their respective agents to observe a minimum net commission rate of 2% in first-hand residential property transactions starting from 1 January 2023. In response to these reports, the Commission issued a press statement² expressing its concern, and reached out to the relevant parties to ascertain the facts. This eventually led to a formal investigation by the Commission when information gathered gave rise to reasonable cause to suspect that a contravention of the Competition Ordinance has taken place, is taking place or is about to take place.

¹ Net commission rate means the commission paid by the property developers to the real estate agencies after deduction of all expenses including rebates to property buyers, set against the listed sale price of properties.

² See the Commission’s [press release](#) dated 6 January 2023.

In the course of the Commission's investigation, Centaline submitted a leniency application under the Commission's *Leniency Policy for Undertakings Engaged in Cartel Conduct (Leniency Policy)* to fully cooperate with the Commission in exchange for the Commission not to take any legal proceedings against Centaline and its officers or employees. A leniency agreement was subsequently entered into between Centaline and the Commission when the former satisfied all relevant requirements in the Leniency Policy which, inter alia, included providing substantial assistance to the Commission in its investigation.

The Commission is seeking remedies before the Tribunal, including:

- A declaration that Midland has contravened the First Conduct Rule, and each of Ms. Wong, Mr. Po, Mr. Lee, Mr. Cheong and Mr. Ma has been involved in the contravention;
- An order for pecuniary penalties to be imposed on them;
- Director disqualification orders against Ms. Wong, Mr. Po, Mr. Lee, Mr. Cheong and Mr. Ma;
- Orders for the payment of the Commission's costs of investigation and proceedings; and
- Orders requiring Midland to adopt an effective compliance programme as the Tribunal considers appropriate.

Mr. Rasul Butt, Chief Executive Officer of the Commission, said, "Home ownership is a much cherished dream for many families and individuals in Hong Kong, and it is by far the most significant financial commitment one can ever have. Intermediaries like real estate agencies have a vital role in facilitating the buying and selling of properties and by tackling a cartel formed between leading real estate agencies, the Commission aims to drive home the message that prices of residential properties, and any element that affects the prices that purchasers will ultimately pay for the properties, should be determined by market forces and be free from manipulation by industry players. This is no different from any transaction involving other goods and services and which are similarly subject to competition law. Through today's enforcement action, the Commission wishes to reiterate that it will spare no effort in disrupting hardcore cartels that affect people's livelihood, particularly in sectors such as the property market.

This case also highlights the significance and benefits of the Commission's *Leniency Policy (for Undertakings / Individuals Involved in Cartel Conduct)*. The Policy strengthens enforcement and enhances deterrence by offering a strong, clear, and transparent incentive to cartel members to report and cease their anticompetitive conduct in exchange for the Commission's agreement not to commence proceedings against them in the Tribunal."

The Commission calls on businesses in all sectors to steer clear of anti-competitive practices, while those already involved in cartel conduct should approach the Commission for leniency or cooperation.

(Photo on the next page)



The Competition Commission hosted a press conference today.
(From left) Mr. Vincent Wong (Head, Investigations), Mr. Patrick Kwok, Executive Director (Operations), Mr. Samuel Chan, Chairman, Mr. Lester Lee, Executive Director (Legal Services) and Mr. William Lee, Senior Legal Counsel (Litigation) of the Commission