

競爭事務委員會
COMPETITION
COMMISSION

Webinar on Competition Ordinance

24 April 2024



Outline

1. Background and Overview
2. Key Elements of the Competition Ordinance and Red Flags of Anti-competitive Practices
3. The Commission's Enforcement Work
4. The Commission's Various Policies
5. Competition Law Case Studies
6. Q&A



1. Background and Overview



Background

- About 130 years ago, the US and Canada enacted antitrust laws to prohibit anti-competitive conducts.
- European countries also introduced competition law after WWII.
- Today, over 130 jurisdictions have enacted competition laws, including the Mainland, Japan, South Korea, India, Singapore, Malaysia and Indonesia.
- Hong Kong:
 - Sectoral competition regulation was introduced for the telecom and broadcasting sector in late 1990s
 - Competition Ordinance (Cross-sector):
 - Passed in June 2012
 - Full commencement since 14 December 2015



Benefits of Competition

For Consumers (including Corporate Consumers)	For Businesses
<ul style="list-style-type: none">▪ Better prices▪ Better quality of products and services▪ More choices	<ul style="list-style-type: none">▪ Drives business efficiency and cost savings▪ Encourages innovation▪ More opportunities to enter the market



Two Cardinal Principles

“Protect competition and not competitors”



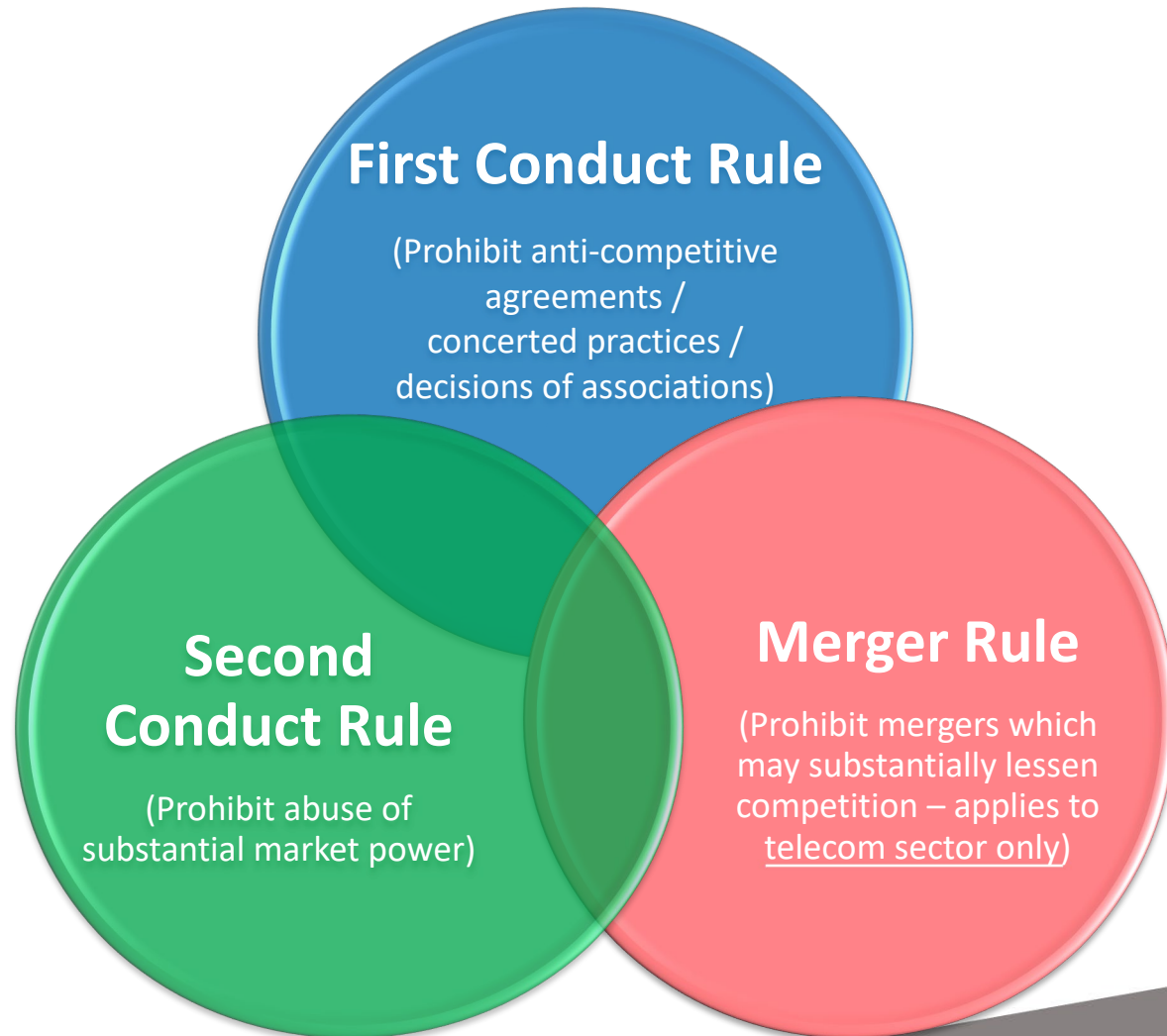
“Substance over form”



2. Key Elements of the Competition Ordinance (CO) and Red Flags of Anti-competitive Practices



Competition Rules under the CO (Cap.619)



The First Conduct Rule (FCR)



- Prohibits an **undertaking** from making or giving effect to an **agreement** if the agreement has the **object or effect** of harming competition in Hong Kong; also applies to **concerted practices**; and **decisions of associations**
- Prohibits all kinds of anti-competitive agreements, involving at least 2 undertakings



The First Conduct Rule (FCR)



- Applicable to:
 - “**Horizontal**” agreements (arrangements between competitors in a market)
 - “**Vertical**” agreements (arrangements between businesses at different levels of a supply chain)



The First Conduct Rule (FCR)



- Arrangements that have the “**object**” of harming competition:
 - “**Cartel**”: **price fixing, market sharing, bid-rigging and output restriction**
 - Regarded as **serious anti-competitive conducts** under the Ordinance



First Conduct Rule: “The Four Don'ts”

Don't cheat. Compete. – The Four Don'ts.

Businesses, regardless of their size, should **never** agree with their competitors to:

- **Fix prices**
- **Share markets**
- **Rig bids**
- **Restrict output**

Do not engage in **Cartels!**

These are **serious anti-competitive conduct.**



First Conduct Rule – Price Fixing

- Businesses who are competitors agreeing to adhere to a **specified price** for the sale of goods or services, or fix any elements of price such as **discounts, rebates, promotions, a formula to calculate prices**, etc.
- All forms of agreement are illegal: verbal, in writing, electronic messages, etc.
- Competitors should **independently** determine the prices of their goods or services

“Let's fix our profit margin at 10% to ensure market stability.”



Red Flags of Price Fixing

- Quotes are much higher than expected
- Prices from different suppliers change in the same amount or percentage at the same time, with no relation to the underlying costs
- A new supplier's price is much lower than the usual suppliers
- Prices from different suppliers stay identical for long periods of time, especially when they were previously differentiated
- Discounts are eliminated, especially in a market where discounts were previously available



First Conduct Rule – *Market Sharing*

- Instead of competing with each other, businesses **collude to divide up markets** by agreeing:
 - Not to sell to each other's customers
 - Not to sell in each other's agreed territories/ geographical areas
 - Not to compete in the production or sale of certain products or services
 - Not to enter or expand into a market where another party to the agreement is already active

"If you don't compete with me in Kennedy Town, I won't compete with you in Sai Ying Pun."



Red Flags of Market Sharing

- Competitors suddenly stop selling in a territory
- Competitors suddenly stop selling to a customer
- Competitor refers customers to other competitors
- Salesperson or prospective bidder says that a particular customer or contract “belongs” to a certain competitor



First Conduct Rule – *Output Restriction*

- Any form of arrangements between competitors to reduce the **volume** or **type** of goods or services available in the market
- Competitors should make decisions on what and how much they produce independently

“We should cut our output to address the problem of oversupply.”



First Conduct Rule – *Bid-rigging*

- When two or more bidders who are competitors agree that they will not compete with one another for a particular project, they may also agree on who should “win” a bid
- Bid-rigging can take different forms, for example:
 - Refrain from bidding
 - Withdraw a bid
 - Bid rotation
 - Submit bids with higher prices / unacceptable terms to support the designated winner
 - Agree on a minimum bidding price, or agree to subcontract to the “losing bidders”
- Competitors should make their tender decisions independently

“I’ll bid high on this tender if you let me win the next tender.”

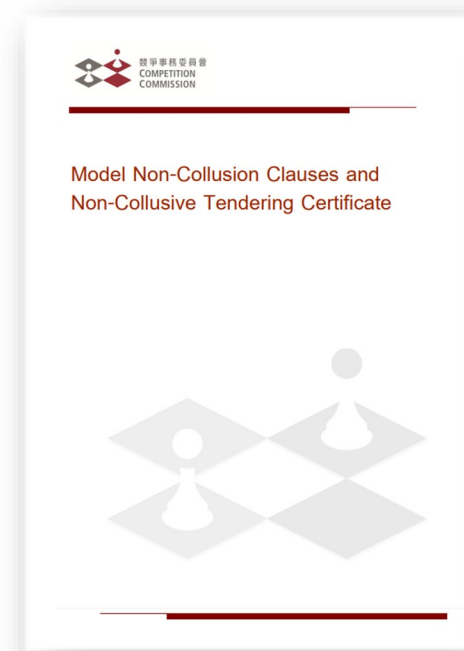


Fighting Bid-rigging Cartels Educational Video: Preventing



Non-Collusion Clauses

- The Commission has published model Non-collusion Clauses (NCC) for procurers to adapt and include in their **invitation to bid documents** and **contracts**
- Model NCC consists of (1) non-collusion wordings; (2) a certificate for bidders to sign to declare that the bid is developed independently
- Model NCC serves to (1) warn bidders of the prohibitions against, and consequences of entering into anti-competitive arrangements; (2) to provide contractual remedy for procurers in the event that the clauses have been breached
- Model NCC has recently been enhanced to require bidders to **disclose beneficial ownership**



Chinese:

<http://bit.ly/CCNonCollusionChn>

English:

<http://bit.ly/CCNonCollusionEng>

Other anti-competitive conduct under FCR

Information Exchange

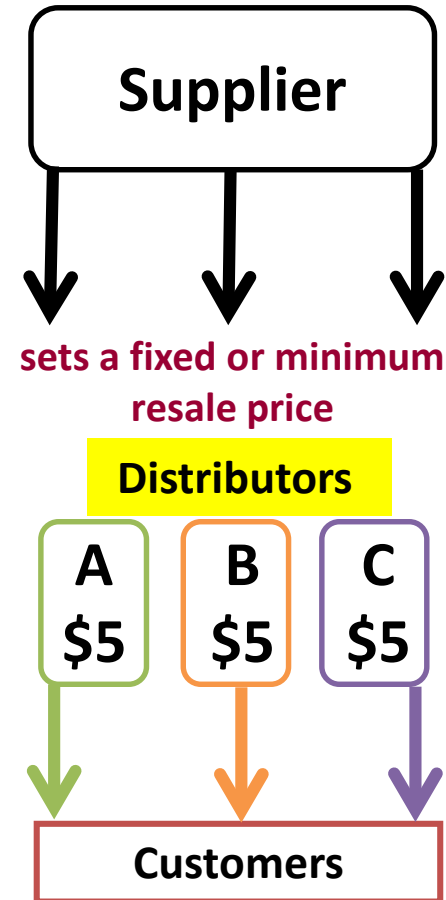
- Not all information exchange is anti-competitive
- But the exchange of commercially sensitive information among competitors (whether directly or through a third party) such as information about their **future prices, pricing strategies, discounts, or costs** may have the same effect as price fixing
- Exchange of historical, aggregated and anonymised data, as well as publicly available information is less likely to give rise to competition concerns



Other anti-competitive conduct under FCR

Resale Price Maintenance (RPM)

- RPM occurs when the supplier of a product establishes **a fixed or minimum resale price** to be observed by the distributors
- RPM is likely a contravention of the First Conduct Rule of the Ordinance unless there is a sound economic efficiency justification



The Second Conduct Rule (SCR)



- Prohibits undertakings with **substantial market power** in a **market** from **abusing** that power by engaging in conduct which has the **object or effect** of harming competition in Hong Kong
- Relevant *market*:
 - Two dimensions:
Product and **Geographic**
 - Substitutability from the perspective of buyer



The Second Conduct Rule (SCR)



Substantial market power:

- Factors to consider in determining whether an undertaking has substantial market power in a market:
 - Market share of the undertaking
 - Countervailing buyer power
 - Barrier to entry/expansion



The Second Conduct Rule (SCR)



- *Examples of anti-competitive conduct under SCR:*

(1) Predatory pricing

- Charging below its own cost, making a loss for a sufficient duration to force one or more undertakings out of the market and/or to otherwise “discipline” competitors

(2) Refusals to deal

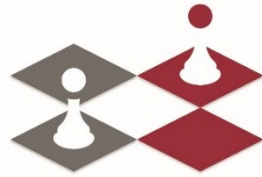
- Refusing to supply an input to another undertaking, or is willing to supply that input only on objectively unreasonable terms



3. The Commission's Enforcement Work



Competition Commission



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Investigation

- Receives complaints
- Investigates cases. Range of enforcement powers – e.g. onsite inspections, requests for documents and interviews
- Can resolve cases by coming to agreement with parties under investigation or applying to Tribunal

Exclusions and Exemptions

- Handles applications for decision on exclusion/exemptions
- Issues block exemption orders – of own volition or following application



Investigation Powers: *S.41 and S.42 Notices*

- **S.41 CO** – Request for documents and/or information
 - Reasonable cause to suspect that a person has or may have possession or control of relevant documents/information or may otherwise be able to assist the Commission in its investigation
 - Use S.41 Notices which relate to any matter it reasonably believes to be relevant to an investigation from any person, e.g. subject under investigation, their competitors, suppliers, customers and any other parties
- **S.42 CO** – Request for attendance before the Commission to answer questions
 - At a specified time and place
- **Both S.41 and S.42 Notices:**
 - Can be used at any stage of the Investigation Phase
 - May be issued to same party/person more than once
 - Non-compliance to S.41 and S.42 Notice is a contravention of S.52 CO



Investigation Powers: *S.48 Warrant*

- **S.48 CO – Enter and search** premises under warrant
 - Issued by a judge of the Court of First Instance
 - Will exercise S.48 power in below circumstances (not exhaustive):
 - a) Secretive conduct
 - b) Documents/information may be destroyed or interfered should the Commission seek them through other means
 - c) Commission has been unsuccessful in obtaining specific or categories of documents/information OR suspects non-compliance

- During the search, Commission officers will:
 - search, copy and/or confiscate relevant documents and equipment that are relevant to the investigation;
 - seek explanations from individuals present at the premises about any documents which may appear to be relevant

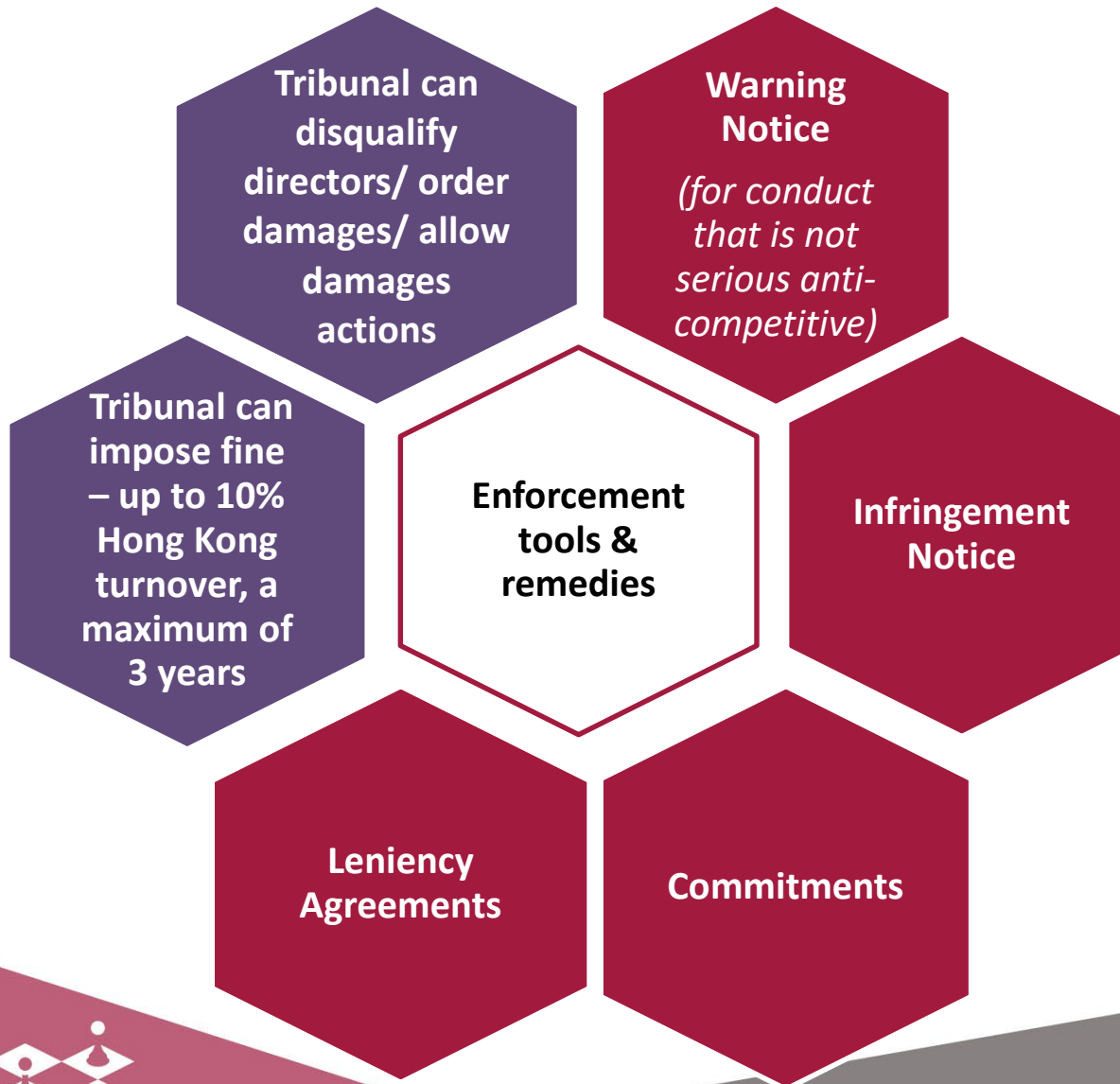


Sanctions on non-compliance with the Commission's Investigation Powers

- S.52 CO provides that failure to comply without reasonable excuse with any requirement (or prohibition) imposed under the Commission's Investigation Powers is a **criminal offence punishable by fines of up to HK\$200,000 and imprisonment for 1 year.**
- Under section 54 of the Competition Ordinance, obstruction of the Commission's search is a **criminal offence and the maximum penalty is a fine of HK\$1,000,000 and imprisonment for 2 years.** Whoever instructs or assists anyone to obstruct the Commission's work is also subject to the same liability.



Enforcement Tools & Remedies



Remedial goals:

- Swift end to illegal conduct
- Undo any harm caused
- Encourage effective compliance
- Deterrence
- Consistency
- Proportionality



Competition Tribunal



Adjudication by the Competition Tribunal

- Determines contraventions of the Ordinance
- Power to impose penalties (fines, director disqualifications) and other orders
- Hears follow-on damages actions
- Hears review of “reviewable determinations”



Pecuniary Penalty

- After investigation, the Commission may apply to the Tribunal for a **pecuniary penalty** to be imposed on any person it has reasonable cause to believe has contravened a competition rule; or has been involved in a contravention of a competition rule
 - “*Has contravened a competition rule*”: Primary contraveners
 - “*Has been involved in a contravention of a competition rule*”: Secondary liability (S.91 CO)
- Statutory maximum in relation to **conduct that constitutes a single contravention**:
 - 10% of the turnover of the undertaking concerned in Hong Kong for each year in which the contravention occurred; or
 - If the contravention occurred in more than 3 years, 10% of the turnover of the undertaking concerned for the 3 years in which the contravention occurred that saw the highest, second highest and third highest turnover



Other Orders

- If the Tribunal is satisfied that a person (includes undertakings and individuals) **has contravened, or has been involved in a contravention** of a competition rule, it may make any order it considers appropriate against that person, including:
 - Declaration of contravention – S.1(a), Sch.3
 - Director disqualification – S.101
 - Injunction – S.1(b), Sch.3
 - Compliance order – S.1(c), Sch.3
 - Compensation – S.1(k), Sch.3
 - Mandatory access/use – S.1(n)&(o), Sch.3
 - Restitution – S.1(p), Sch.3

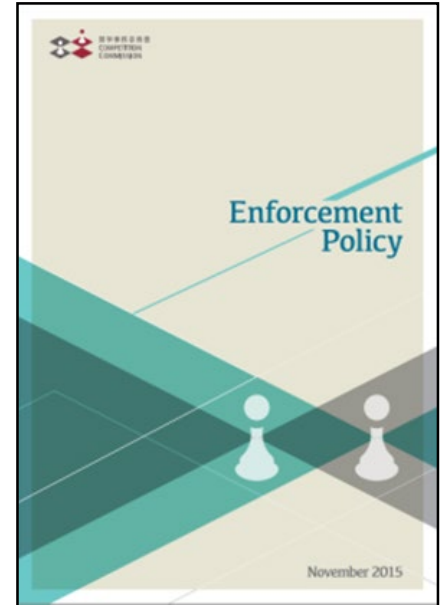


4. The Commission's Various Policies



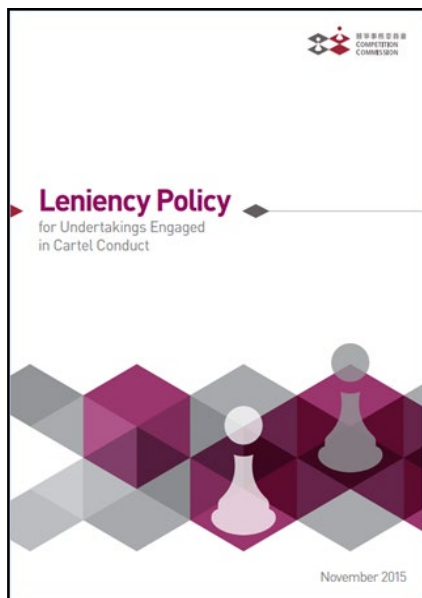
Enforcement Policy

- Commission will target anti-competitive conduct that is clearly harmful
- Priority given to following types of conduct:
 - cartel conduct (price fixing, market sharing, output restriction and bid-rigging)
 - other agreements contravening First Conduct Rule causing significant harm to competition in HK and
 - abuses of substantial market power involving exclusionary behaviour by incumbents
- In addition to taking action against undertakings, the Commission may also prioritise taking action against:
 - associations of undertakings; and/or
 - officers (as defined in the CO), including directors and managers of undertakings

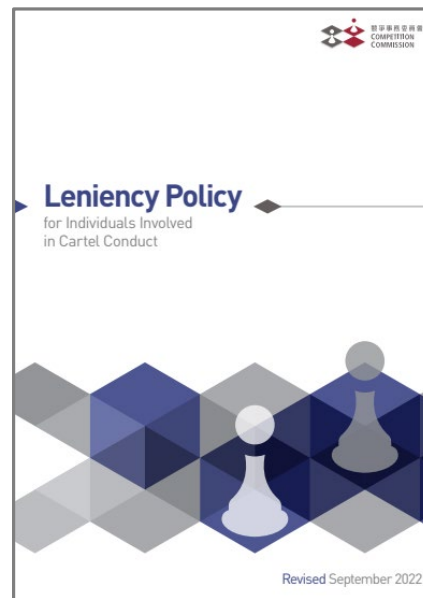


Cartel Leniency Policies

To provide a strong, transparent, and predictable incentive for an undertaking or an individual to stop their involvement in cartel conduct and to report the conduct to the Commission.



Leniency Policy for Undertakings



Leniency Policy for Individuals



Cartel Leniency Policies

Key elements of the Policies

- The Policies apply only to engagement or involvement in **cartel conduct** that contravened the First Conduct Rule of the Competition Ordinance
- Applicable to **undertakings** and **individuals**
- The Commission will not commence proceedings in the Tribunal against the first undertaking or individual who self-reports the cartel conduct to the Commission and meets all other requirements for receiving leniency
- This includes not seeking a pecuniary penalty or for an order declaring that the successful leniency applicant has contravened the Ordinance



Leniency Policy for Undertakings

- Available for the first cartel member that either:
 - Type 1. discloses involvement in cartel conduct of which the Commission has not commenced 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.
- In the event of the initiation of a follow-on action by victims of the cartel conduct, the Commission may issue an infringement notice to a party to a Type 2 leniency agreement containing a requirement to admit a contravention, in order to permit the initiation of follow-on proceedings against that party
- Not available to ringleaders of the cartel conduct or who have coerced other parties to participate in the cartel conduct



Leniency Policy for Individuals

- Eligible for leniency application by an individual even if an undertaking has been granted leniency in the same case
- 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.
- Not available to ringleaders of the cartel conduct or who have coerced other parties to participate in the cartel conduct



How to Apply for Leniency

- Call the Leniency Hotline at **+852 3996 8010** or
- E-mail to: Leniency@compcomm.hk
- The Leniency Hotline is answered between **8am to 6pm** Hong Kong time, **Mon to Fri** (excluding public holidays)



Cooperation and Settlement Policy

- **Undertakings** engaged in **cartels** which **do not benefit from the Leniency Policy**
- May choose to admit their wrongdoings and cooperate with the Commission in its investigations and resulting proceedings
- In return the Commission will offer a discount of **up to 50% off** the pecuniary penalty it would otherwise recommend to the Competition Tribunal
- Entering into a **Cooperation Agreement**
- Jointly apply to for an agreed Order on the basis of a joint statement of agreed facts



Benefits of Cooperation

- Benefits to the undertakings:
 - Recommendation for a reduction in pecuniary penalty
 - ❖ RPP reduction: **Band 1:** 35-50%, **Band 2:** 20-40%, **Band 3:** up to 25%
 - Protection for employees, officers, partners and agents
 - Other collateral benefits: e.g. reduced reputational harm, saving litigation costs
- Benefits are conditional on **full and continuous cooperation in the investigation and subsequent litigation** by the undertaking and its employees
- The **order** and **timing** of cooperation determines the amount of benefits (reduction in RPP) available



5. Competition Law Case Studies



Summary of Competition Law Cases

Enforcement Outcomes	Cases
(I) Cases in the Competition Tribunal	
<ul style="list-style-type: none"> ▪ First Conduct Rule 	<ol style="list-style-type: none"> 1. IT bid-rigging case (CTEA1/2017)* 2. On Tat Estate renovation services cartel case (CTEA2/2017) * 3. King Tai Court renovation services cartel case (CTEA1/2018) * 4. On Tai Estate renovation services cartel case (CTEA1/2019)* 5. IT cartel case (CTEA1/2020)* 6. Textbook cartel case (CTEA2/2020) 7. Mail inserter cartel case (CTEA1/2021)* 8. Cleansing services cartel case (CTEA2/2021) 9. Travel services sector cartel case (CTEA1/2022) 10. Air-conditioning works cartel case (CTEA2/2022) 11. MSG powder resale price maintenance case (CTEA3/2022) 12. Distance Business Programme cartel case (CTEA1/2023) 13. Air-conditioning works cartel case (CTEA2/2023) 14. Real estate agencies cartel case (CTEA3/2023)
<ul style="list-style-type: none"> ▪ Second Conduct Rule 	<ol style="list-style-type: none"> 1. Abuse of substantial market power in medical gases supply market case (CTEA3/2020)

Remarks

* Cases that have been ruled by the Tribunal and judgment has been handed down



Summary of Competition Law Cases (continued)

Enforcement Outcomes	Cases
(II) Issuing Infringement Notices	<ol style="list-style-type: none"><li data-bbox="523 396 1006 432">1. IT cartel case (Jan 2020)<li data-bbox="523 446 1354 482">2. Travel services sector cartel case (Feb 2021)
(III) Accepting Commitments	<ol style="list-style-type: none"><li data-bbox="523 568 1769 604">1. Accepting commitments offered by online travel agents (May 2020)<li data-bbox="523 618 1769 704">2. Accepting commitments offered by the Hong Kong Seaport Alliance (Oct 2020)<li data-bbox="523 718 1789 753">3. Accepting commitments offered by seven car distributors (Oct 2022)<li data-bbox="523 768 1744 853">4. Accepting commitments offered by online food delivery platforms (Dec 2023)



Cases in the Competition Tribunal

IT bid-rigging case (CTEA1/2017)

- March 2017: The Commission commenced proceedings in the Tribunal, alleging that 5 IT companies engaged in **bid-rigging** in relation to a tender issued by the Hong Kong Young Women's Christian Association for the supply and installation of a new IT system
- **Judgment:** The Tribunal ruled that 4 of the companies contravened the First Conduct Rule of the Competition Ordinance and they had to pay a total pecuniary penalty of over HK\$7.16 million and over HK\$8.6 million of the Commission's legal costs



Cases in the Competition Tribunal

On Tat Estate renovation services cartel case (CTEA2/2017)

King Tai Court renovation services cartel case (CTEA1/2018)

On Tai Estate renovation services cartel case (CTEA1/2019)

- In 2017-2019, the Commission brought 3 cases to the Tribunal for suspected **market sharing and price fixing** of renovation services in public housing estates
- A total of 19 decoration contractors and 5 individuals were involved in the 3 cases
- **Judgment:**
 - The Tribunal ruled that all the Respondents contravened or were involved in the contravention of the First Conduct Rule of the Competition Ordinance
 - Tribunal ordered 19 decoration contractors and 3 individuals to pay a total pecuniary penalty of over HK\$12 million* and the Commission's legal costs
 - The Tribunal imposed pecuniary penalty on individual for the **first** time
 - The Tribunal issued the first director disqualification order to an individual, prohibiting him from serving as a director for 22 months and then prohibited another individual from serving as a director for 3 years



Cases in the Competition Tribunal

On Tat Estate renovation services cartel case (CTEA2/2017) (continued)

King Tai Court renovation services cartel case (CTEA1/2018) (continued)

On Tai Estate renovation services cartel case (CTEA1/2019) (continued)

* The Commission lodged appeals against pecuniary penalties imposed by the Tribunal on 5 Respondents

- ❖ In June 2022, the Court of Appeal handed down a judgment in favour of the Commission and ordered to increase the total pecuniary penalties of the 5 Respondents from HK\$2.769 million to HK\$4.358 million
- ❖ The Court of Appeal agreed with the Commission's views and ruled that 5 Respondents which had lent their HKHA licences to other subcontractors in the renovations projects, should not be given a lower pecuniary penalty solely because it was their subcontractors and the Respondents had no direct participation in the cartel. The 5 Respondents and their respective subcontractors were considered to be the same undertaking under the law, and should be liable for the entire penalty that is to be imposed on the undertaking



Cases in the Competition Tribunal

Hong Kong's first case on abuse of substantial market power (CTEA3/2020)

- December 2020: The Commission brought a case to the Tribunal, alleging that 2 companies (as parts of a single undertaking) and 1 individual engaged in **abuse of substantial market power** in the medical gases supply market in Hong Kong to the detriment of competition in the downstream medical gas pipeline system maintenance market



Cases in the Competition Tribunal

Travel services sector cartel case (CTEA1/2022)

- January 2022: The Commission commenced proceedings in the Tribunal against 4 undertakings and 1 individual
- It is the Commission's case that between 2016 and 2017, two competing travel services providers agreed to fix the prices at which tourist attractions and transportation tickets were sold at hotels belonging to nine hotel groups in Hong Kong. The hotel groups, as well as a tour counter operator in one of the hotels, acted as **facilitators** by passing on pricing information between these two competitors in circumstances where they had actively contributed to the implementation of the price-fixing agreement
- The Commission has reasonable cause to believe that the subject arrangement had the object of harming competition, in contravention of the First Conduct Rule of the Competition Ordinance
- February 2021: Enforcement actions against the 6 hotel groups and the tour counter operator were resolved with the Commission issuing and all of them accepting **Infringement Notices** for acting as facilitators in the subject arrangement. These parties had committed to take concrete measures to effectively enhance competition compliance within their respective businesses



Cases in the Competition Tribunal

Travel services sector cartel case (CTEA1/2022) (continued)

- During the investigation onward, 2 undertakings and 1 individual (Cooperating Respondents) agreed to cooperate with the Commission under the Commission's Cooperation Policy. By the Cooperating Respondents ceasing the relevant anti-competitive conduct and meeting the various requirements under the Cooperation Policy, the Commission agreed to enter into cooperation agreements with them which results in the submission of joint applications to the Tribunal seeking orders to allow the proceedings to be disposed of by consent.

Judgment:

- July 2022: The Tribunal ordered 2 cooperating undertakings to pay a total pecuniary penalty of HK\$5.77 million, a discounted amount, as well as the Commission's investigation and litigation costs. An individual was disqualified from acting as a director in any company for a period of 3 years.
- It is the first case where the Commission resolves an enforcement action by way of consent based on its Cooperation Policy, thus saving both sides significant time and costs.



Cases in the Competition Tribunal

Travel services sector cartel case (CTEA1/2022) (continued)

- In relation to the last 2 undertakings (Respondents) which did not cooperate with the Commission, the Commission is seeking remedies before the Tribunal, including:
 - A declaration that the Respondents have contravened the First Conduct Rule;
 - An order for pecuniary penalties to be imposed on the Respondents;
 - Orders for the recovery of the Commission's costs of investigation and proceedings; and
 - Orders requiring the Respondents to adopt an effective compliance program as the Tribunal.



Cases in the Competition Tribunal

MSG powder resale price maintenance case (CTEA3/2022)

- September 2022: The Commission commenced proceedings in the Tribunal against an undertaking
- 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, the undertaking continued to **give effect to and/or engage in RPM arrangements**, which began in 2008, by establishing **minimum resale prices** for the Gourmet Powder to be charged by its two main local distributors at the time
- The undertaking issued notices, reminders and warnings to ensure the distributors would not sell its Gourmet Powder for less than a particular price



Cases in the Competition Tribunal

MSG powder resale price maintenance case (CTEA3/2022) (continued)

- The Commission had reasonable cause to believe that the undertaking had contravened the First Conduct Rule of the Ordinance, and constituted serious anti-competitive conduct
- Given that this was the first RPM case intended to be brought to an enforcement outcome under the Ordinance, the Commission attempted to resolve the matter by issuing an infringement notice to the undertaking with specific requirements to be fulfilled
- The undertaking did not agree to offer a commitment to comply with those requirements, thus resulting in the proceeding against it



Cases in the Competition Tribunal

Distance Business Programme cartel case (CTEA1/2023)

- In March 2023, the Commission commenced proceedings in the Tribunal against four undertakings and three individuals
- It is the Commission's case that the four undertakings engaged in practices including **cover bidding** when providing quotations for IT solutions in applications for government subsidy under the Distance Business Programme ("D-Biz")
- There are altogether 189 D-Biz applications affected in this case, with approved government funding totalling around HK\$13 million
- The Commission has reasonable cause to believe that such conduct amounts to serious anti-competitive conduct in the form of **price fixing, market sharing, bid-rigging and/or sharing competitively sensitive information**, in contravention of the First Conduct Rule of the Competition Ordinance



Cases in the Competition Tribunal

Distance Business Programme cartel case (CTEA1/2023) (continued)

- **Screening of data** is central to this case. The analysis of extensive bidding data led to suspicious bidding patterns and features being identified
- During the course of the Commission's investigation, apart from uncovering evidence that supports the Commission's case that the respondents have contravened the Ordinance, the Commission also found evidence suggesting that certain individual(s) may have committed criminal offence(s) including forgery and the provision of false or misleading documents or information. These matters have been referred to the Police for criminal investigation



Accepting Commitments

Accepting commitments from two online food delivery platforms (Dec 2023)

- The Commission's investigation revealed that each of the two food delivery platforms has a certain degree of market power in the online food delivery market in Hong Kong. Their agreements with partnering restaurants included provisions which may hinder entry and expansion by new or smaller platforms and/or soften competition in the market. These provisions include:
 - i. Exclusive Terms: allowing the food delivery platform to charge partnering restaurants a lower commission rate when they work exclusively with the platform
 - ii. Breach of Exclusivity Provisions: restricting restaurants partnering exclusively with the food delivery platform from, or penalising them for, switching to also partnering with other platforms
 - iii. Price Restriction Provisions: preventing partnering restaurants from offering lower menu prices to consumers on their own direct channels and/or on other online platforms
 - iv. Tying Provisions (*in the case of one of the platforms only*): requiring restaurants which use food delivery services to also use its order-to-pickup service



Accepting Commitments

Accepting commitments from two online food delivery platforms (Dec 2023) (continued)

- In **December 2023**, the Commission **accepted** the commitments offered **under section 60 of the Competition Ordinance** by the two platforms, which will **remain in force for a period of three years**.
- The acceptance of the commitments will result in amendments to the two platforms' respective agreements with their partnering restaurants. Restaurants can now enjoy greater freedom in partnering with more than one online food delivery platform and in pricing menu items across their own channels and other platforms.



Education and Advocacy



Publications

- Six guidelines providing guidance on Commission’s interpretation and enforcement of the Ordinance
- Enforcement Policy, Leniency Policies, Cooperation and Settlement Policy and Policy on Recommended Pecuniary Penalties
- Brochures introducing the Ordinance in an easy-to-understand approach

Educational videos

- Educational videos on “Fighting Bid-Rigging”, “Cartel” and “Combat Price-Fixing Cartels”
- Short videos and micro movie explaining the Ordinance and cartels

Seminars

- Regular seminars to promote public understanding of the Ordinance



Education and Advocacy (continued)

- **COMPETE: Cartel Hunters** (Click [here](#) to watch)
- Hong Kong's first docudrama series adapted from real-life competition law cases handled by the Commission
- Cases involving different anti-competitive conduct including bid-rigging, market sharing, price fixing, exchange of sensitive information and facilitation of collusive agreement



Complain and Report

- Completing an Online Complaint Form available on the Commission's website:
www.compcomm.hk
- Email: complaints@compcomm.hk
- Reporting number: (852) 3462 2118
- Leniency hotline: (852) 3996 8010
- Post: Competition Commission
19/F, South Island Place,
8 Wong Chuk Hang Road,
Wong Chuk Hang, Hong Kong
- In person at the Commission's office (by appointment only)



Q&A



Thank You!

