

執業問與答

PRACTICE Q&A

在《專業天地》內，我們會解答與持牌人執業息息相關的一些常見提問。

In *Horizons*, we will answer selected enquiries commonly raised by licensees concerning estate agency practice.

問：地產代理公司可否宣傳只收取部分佣金(或免佣)，甚至表示提供佣金回贈予客戶？

Q: Are estate agency companies allowed to promote that they will only charge a small amount of commission (or no commission), or even mention that they will offer a commission rebate to their clients?

答：《地產代理條例》及其附屬法例並沒有就地產代理收取的佣金數額或比率，或可否向買家提供優惠有任何訂明，而是視乎地產代理與客戶雙方的協議。

然而，根據監管局發出的執業通告(編號13-04 (CR))訂明，地產代理在銷售一手住宅物業時，須將其提供予準買家的任何優惠(包括任何送贈、折扣或回贈)以書面形式告知準買家，具體列明提供優惠的條款及形式，並說明該優惠是由賣方提供，抑或是由其所屬的地產代理公司提供。

此外，《地產代理條例》訂明，假如地產代理同時代表買賣雙方，他們必須向客戶表明，以及向各方詳盡披露因該物業而獲得的金錢或其他實益利益，包括佣金的數額。根據監管局發出的《操守守則》，地產代理必須秉持誠實、忠誠和嚴正的態度向客戶提供服務，保障和促進客戶利益，對交易各方公平公正。

A: The Estate Agents Ordinance (“EAO”) and its subsidiary legislations have no stipulation on the amount or rate of commission that estate agents are entitled to or whether estate agents can offer any incentive to their clients. It is subject to the negotiation between the estate agent and his client.

However, according to the Practice Circular No.13-04(CR) issued by the EAA on the conduct in the promotional activities of first sales, licensees must set out in writing any promise of incentives, including any gifts, discounts or rebates they have made to prospective purchasers, and stipulate clearly the terms and format of incentives offered by the developer or their estate agency companies.

In addition, the EAO stipulates that if an estate agent represents both the vendor and the purchaser, he shall disclose to their clients any pecuniary or other beneficial interests in relation to the property to all parties concerned, including the amount of commission. According to the *Code of Ethics* issued by the EAA, estate agents must also provide services to clients with honesty, fidelity and integrity, protect and promote the interests of their clients, and act in a fair and impartial manner to all parties involved in the transactions.

