

有關「遵守《競爭條例》」的新執業通告 NEW PRACTICE CIRCULAR TITLED “COMPLIANCE WITH THE COMPETITION ORDINANCE”

為協助地產代理公司在經營其地產代理業務時，遵守《競爭條例》(「《條例》」)，監管局於2016年4月1日發出一份題為「遵守《競爭條例》」的新執業通告(編號16-01(CR))，新通告已於同日生效。

根據該通告，地產代理公司不得與競爭對手訂立或執行以妨礙、限制或扭曲競爭為目的或效果的協議，例如就佣金、折扣或回贈作出協議。

他們應就業務作出獨立的商業決定，以及不得參與有可能會達成或討論反競爭協議的會議。因此，地產代理商會應避免就佣金率向其會員作出任何指示或建議，而其會員亦不應執行商會發出的可能會損害競爭的指引或建議。

另外，具有相當程度的市場權勢的地產代理公司，不得藉從事以妨礙、限制或扭曲競爭為目的或效果的行為而濫用該權勢。

為加強地產代理公司對新執業通告的了解，監管局已把相關的「問與答」上載至監管局網頁(www.eaa.org.hk)供業界參考，並於6月份舉辦相關的持續專業進修講座。

The EAA issued a new Practice Circular (No.16-01 (CR)) titled “Compliance with the Competition Ordinance” on 1 April 2016 to assist estate agency companies to comply with the Competition Ordinance (“the Ordinance”) when carrying out their estate agency business. The new Circular became effective on the same date.

According to the Practice Circular, estate agency companies must not enter into or give effect to agreements which have the object or effect of preventing, restricting or distorting competition with their competitors, such as agreeing on commission, discounts or rebates.

They should make commercial decisions for their business independently and should not participate in meetings where anti-competitive agreements are likely to be reached or discussed. In this regard, estate agency associations should refrain from setting guidelines or making recommendations to members on rates of commission, and their members should not give effect to the guidelines or recommendations of estate agency associations which may harm competition.

Furthermore, estate agency companies with a substantial degree of market power must not abuse their market power by engaging in conduct which has the object or effect of preventing, restricting or distorting competition.

In order to enhance estate agency companies understanding of the new Circular, the EAA has uploaded a set of relevant “Questions and Answers” on the EAA’s website (www.eaa.org.hk) for the trade’s reference. Related CPD seminars have also been held in June already.