



**The EAA issues a new Practice Circular on
good and effective competition practices**

(5 August 2024) The Estate Agents Authority (“EAA”) today issued a new Practice Circular to provide guidelines to the estate agency trade on how to adopt good and effective competition practices in relation to charging of commission for transactions of sale and purchase and letting of properties, as well as offering of incentives (if any) to purchasers in the sale of first-hand residential properties. The new Practice Circular shall take effect on 1 November 2024.

The EAA emphasised that price competition in respect of charging of commission among the estate agency industry in a free market economy is a fact of life and is also a business decision of each estate agency company. The EAA will not intervene nor set any criteria for commission levels. However, to ensure the industry has rules to follow and comply with the Competition Ordinance, the EAA has previously issued guidelines on offering of incentives by estate agents in the sale of first-hand residential properties and compliance with the Competition Ordinance in 2013 and 2016 respectively (namely Circular No. 13-04 (CR) and Circular No. 16-01 (CR)).

Today, to enhance the trade’s professionalism and facilitate fair competition within the industry, the EAA decided to issue a new Practice Circular (No. 24-01(CR)) to provide further guidance (but not superseding the two relevant existing Practice Circulars mentioned in the above paragraph).

Regarding the charging of commission in respect of transactions of sale and purchase and letting of properties, the new Practice Circular encourages estate agency companies to formulate a written commission policy; and



before entering into any preliminary sale and purchase agreement (“PSPA”) or tenancy agreement, to provide clients with a letter issued by the estate agency company under its letterhead containing clear provisions defining the detailed scope and duration of services and/or duties to be covered by the stated or agreed commission, and the names of the individual licensees and his/her supervisor(s) (if any) providing the specific service to the clients. In addition, estate agency companies are required to issue clear guidelines to staff members on their commission policy and provide sufficient staff training on how they should properly explain the policy to their clients.

In the sale of first-hand residential properties in Hong Kong, if estate agency companies decide to offer incentives to purchasers, the new Practice Circular requires that these companies must, before submission of the relevant tender/offer/registration of intent for the purchaser or entering into any agreement in connection with the purchase or making any payment in relation to the purchase by the purchaser (whichever is the earliest), take the following steps to inform the purchaser in writing of the incentives so offered: (a) use the pro-forma incentive letter issued by the estate agency company under its letterhead (regardless of whether it has been duly signed by an authorised signatory of the estate agency company or not) setting out details of the incentives and specified information; (b) if the incentive is in monetary terms (such as a cash rebate), state in the incentive letter the absolute amount of the rebate or a formula showing how the amount of the rebate would be calculated, which may only be expressed as an explicit percentage of the purchase price as stated in the PSPA; and (c) provide the purchaser with the original of the incentive letter.

In addition, the incentives offered by estate agency companies must not restrict or prevent purchasers from giving a holistic consideration when making a purchase decision; and the incentives offered by an estate agency



company with a substantial degree of market power must not be abusive.

For the full content of the new Practice Circular, please visit the EAA's website (www.eaa.org.hk).

The Chief Executive Officer of the EAA, Ms Ruby HON Yuen-ping, said that during the preparation of the new Practice Circular in the past few months, the EAA had shared the ideas of the guidelines with the representatives of trade associations and consulted with different stakeholders, including the government, and the Competition Commission etc. The new Practice Circular has included the opinions of different parties and as there are about three months before the new Practice Circular takes effect, she believes the trade will have enough time to get prepared. She hopes that the new Practice Circular will not only enhance the professional standard of the trade, but also provide consumers with better protection.

The EAA will later on prepare a set of relevant Questions and Answers for the trade's reference and organise relevant Continuing Professional Development seminars to help the trade understand the content of the guidelines. Licensees should familiarise themselves with the guidelines as soon as possible and make relevant work adjustments before the guidelines take effect to ensure compliance. Licensees who fail to comply with the EAA's guidelines may be subject to disciplinary action.

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