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韓婉萍  
行政總裁

**Ruby HON Yuen-ping**  
Chief Executive Officer

“

局方必須依循《競爭條例》的精神，不能禁止代理提供優惠或回贈，以免損害消費者的利益。

The EAA must follow the spirit of the Ordinance and cannot prohibit agents from providing incentives or rebates, which may jeopardise consumers' interest.

”

# 佣金與《競爭條例》

## Commission and Competition Ordinance

早前有地產代理被競爭事務委員會（「競委會」）入稟控告他們涉嫌合謀訂定佣金比率，違反《競爭條例》「第一行為守則」。筆者希望在此欄目談談這個持牌人關注的問題。

首先，筆者希望再提醒地產代理公司應自行獨立決定或與客戶個別協商其收取的佣金率及他們向客戶提供的折扣、回贈及優惠；而非採用或跟從行業中的所謂「行規」或「標準」佣金率、或以任何形式集體訂定的佣金率。否則，便有可能違反《競爭條例》下的「第一行為守則」。

持牌人對佣金問題當然關注。事實上，局方曾就地產代理向客戶提供優惠的問題向競委會徵詢意見，競委會回覆表示，地產代理向客戶提供優惠（例如現金或佣金回贈），會被視為一種地產代理之間的價格競爭。因此，基於《競爭條例》及政府採納有助競爭的原則，監管局不應就佣金金額或比率向地產代理施以任何規定，而禁止代理向客戶提供優惠或回贈亦不恰當。

筆者深深明白，一個專業的地產代理，需要花很多功夫才能促成物業交易，理應有權獲得合理回報。然而，尤其在樓市淡靜的情況下，競爭激烈無疑是市場定律。我希望持牌人明白，基於上述競委會的建議，局方必須依循《競爭條例》的精神，不能禁止代理提供優惠或回贈，以免損害消費者的利益。反之，局方會繼續教育消費者，不應只着眼於他們需要支付的佣金金額或可以獲得的優惠多少，而應留意代理的服務質素，以及其表現是否夠專業。

Earlier, the Competition Commission accused some estate agents of colluding to fix commission rates which contravened the First Conduct Rule under the Competition Ordinance ("the Ordinance"), and took legal action against them. I would like to talk about this issue of concern to licensees in this column.

First of all, I would like to remind estate agency companies again that they should make their own independent decisions or negotiate individually with their clients on the rate of commission they charge; as well as the discounts, rebates and incentives they offer to their clients, rather than adopting or following any so-called "customary" or "standard" rate in the industry or a rate that is set collectively in any way. Failing which, they may contravene the First Conduct Rule under the Ordinance.

Licensees are certainly concerned about the issue of commission. In fact, the EAA has sought opinion from the Competition Commission on the issue of incentives provided by estate agents to clients. The Competition Commission responded that the offer of incentives (such as cash/ commission rebates) by estate agents to clients is considered a form of price competition among estate agents. Therefore, in view of the Ordinance and the pro-competition principles adopted by the Government, the EAA should not impose any requirements on estate agents regarding the amount or rates of commissions to charge; and it is also inappropriate for the EAA to prohibit estate agents from offering cash/ commission rebates to clients or potential purchasers.

I fully appreciate that a professional estate agent needs to do a lot of work to facilitate a property transaction and should be entitled to receive a reasonable return. However, keen competition is undoubtedly the law of the market, especially in a stagnant property market. I hope that licensees could understand that based on the above advice of the Competition Commission, the EAA must follow the spirit of the Ordinance and cannot prohibit agents from providing incentives or rebates, which may jeopardise consumers' interest. Instead, the EAA will continue to educate consumers that they should focus on the service quality of the agents and whether their performance is professional enough, rather than focusing only on the amount of commission they have to pay or incentives they could receive.