

Questions and Answers

1. What are the Commission's concerns with Keeta's agreements with partnering restaurants?

It came to the Commission's attention that Keeta's agreements with its partnering restaurants included provisions whereby:

- (i) Keeta would charge partnering restaurants a lower commission rate if they work exclusively with Keeta;
- (ii) partnering restaurants were restricted from, or penalised for, switching from partnering exclusively with Keeta to also partnering with other platforms; and
- (iii) partnering restaurants were prevented from offering lower menu prices to consumers on their own direct channels and on competing online delivery platforms.

Given Keeta's degree of market power in the online food delivery market, the Commission considers that these provisions may hinder entry and expansion by new or smaller platforms, and soften competition in the online food delivery market. This would in turn deprive restaurants, and ultimately consumers, of the benefits of effective competition.

2. Why is the case being addressed through a two-step process? In particular, how does Keeta's proposed commitment differ from the earlier voluntary amendments?

Implementing the voluntary amendments as the first step results in the relevant provisions being amended or removed within a short period of time, thus bringing immediate benefits to both restaurants and customers. On top of the voluntary amendments, the Commission considers the additional section 60 commitment necessary as a second step to ensure that the amendments are legally binding and specifically enforceable by the Commission under the Ordinance.

3. How would the proposed commitment benefit end customers, restaurants and others?

The proposed commitment will bring the following benefits:

- **Restaurants** will gain greater flexibility in partnering with new or small platforms and in setting menu prices across their dine-in and other delivery channels;
- **New entrants and small platforms** can collaborate with more restaurants and expand their networks; and

- **Customers** will ultimately benefit from stronger competition between platforms, which brings more choices and potentially improved services and lower menu prices.

4. What is a commitment under section 60 of the Ordinance?

Under section 60 of the Ordinance, the Commission may at any stage accept a commitment to take any action or refrain from taking any action from parties under investigation, where the Commission considers this appropriate to address its concerns about a possible contravention of a competition rule. For the avoidance of doubt, the Commission does not need to reach a definitive conclusion that a contravention of the First Conduct Rule has occurred to accept a commitment.

If the Commission accepts a commitment, it will terminate its investigation and not bring proceedings in the Competition Tribunal regarding the matters covered by the commitments, or terminate them if it has already brought proceedings. The Ordinance does not require parties offering commitments to make any admission of a contravention.

As set out in the Policy on Section 60 Commitments, if a person fails to comply with a commitment, the Commission may withdraw acceptance of the commitment and/or seek to enforce it in the Competition Tribunal.

5. How can I submit comments on the proposed commitment?

Representations should be sent to the Commission as follows:

- a. preferably by email to Consultation@compcomm.hk, with the case reference number EC/12LD quoted in the subject line of the email;
- b. by fax to +852 2522 4997; or
- c. by post to:

Representations on Case EC/12LD
Competition Commission
19/F, South Island Place
8 Wong Chuk Hang Road
Wong Chuk Hang, Hong Kong.

Representations received after the deadline will not be considered.