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For Immediate Release

Competition Commission takes bid-rigging case to Competition Tribunal

The Competition Commission (Commission) has today commenced proceedings in the Competition Tribunal (Tribunal) against five information technology companies namely Nutanix Hong Kong Limited (Nutanix), BT Hong Kong Limited (BT), SiS International Limited (SiS), Innovix Distribution Limited (Innovix) and Tech-21 Systems Limited (Tech-21).

The proceedings concern a tender issued by the Hong Kong Young Women's Christian Association (YWCA), a social services organisation, in July 2016. The tender related to the supply and installation of a new IT server system based on Nutanix technology. Each of BT, SiS, Innovix and Tech-21 submitted bids in response to the tender.

The Commission alleges that the parties contravened the First Conduct Rule of the Competition Ordinance by engaging in bid-rigging. The alleged anti-competitive arrangements involved the submission of "dummy" bids by certain parties.

The Commission is seeking remedies including pecuniary penalties and a declaration that each party has contravened the First Conduct Rule of the Competition Ordinance.

Ms. Anna Wu, Chairperson of the Commission, said, "Today, the Commission has commenced proceedings before the Tribunal for the first time in what is a significant milestone for the enforcement of competition law in Hong Kong. Bid-rigging can occur in any market where tender processes are used. It is one of the most blatant and harmful forms of anti-competitive conduct. The Commission takes this type of conduct very seriously because of its potential to cause significant harm to consumers and the economy as a whole.

These proceedings drive home the message that market participants in all sectors should steer clear of bid manipulation practices, while those already involved in rigging bids should consider approaching the Commission for leniency. Members of the public should also be alert and we encourage them to report suspected bid-rigging to the Commission. The Commission will use the full extent of its powers to combat bid-rigging."

Notes to the Editor

The Commission

The Commission is an independent statutory body established under the Competition Ordinance (Cap. 619).

The Competition Ordinance

The objective of the Ordinance is to prohibit conduct that prevents, restricts or distorts competition and mergers that substantially lessen competition in Hong Kong. At the present time, the Merger Rule applies only to a merger involving an undertaking that directly or indirectly holds a carrier licence issued under the Telecommunications Ordinance (Cap. 106). The competition rules in the Ordinance came into force on 14 December 2015.

The First Conduct Rule

Under the First Conduct Rule in section 6(1) of the Competition Ordinance, undertakings are prohibited from making or giving effect to an agreement, or engaging in a concerted practice, if the object or effect of the agreement or concerted practice is to prevent, restrict or distort competition in Hong Kong. Cartel conduct, which includes bid-rigging, is generally regarded as a particularly harmful form of anti-competitive agreement or concerted practice.