

23 May 2023

For Immediate Release

## Competition Commission commences second set of proceedings concerning air-conditioning works in Competition Tribunal

As foreshadowed in the filing of a set of legal proceedings<sup>1</sup> on 16 June 2022 in relation to suspected cartel conduct in the supply of air-conditioning works in Hong Kong (“First Proceedings”), the Competition Commission (“Commission”) has today commenced further proceedings (“Second Proceedings”) in the Competition Tribunal (“Tribunal”) against two undertakings and one individual, namely:

1. *ATAL Building Services Engineering Limited* (ABS)<sup>2</sup>;
2. *Johnson Controls Hong Kong Limited, York International (Northern Asia) Limited* and *Johnson Controls International plc* (“Johnson Controls”)<sup>3</sup>; and
3. *Mr. LEE Yui Ming, Jimmy*, former Assistant Service Manager of Johnson Controls (“Mr. Lee”).

It is the Commission’s case that two competing providers of air-conditioning works, Johnson Controls and ABS, had engaged in serious anti-competitive conduct in contravention of the First Conduct Rule (FCR) of the Competition Ordinance (“Ordinance”) whereby they fixed prices, shared markets and/or rigged bids in relation to the supply of air-conditioning works in Hong Kong from 14 December 2015 to 24 June 2018. It is also the Commission’s case that Mr. Lee was a person involved in the contravention.

ABS has previously entered into a cooperation agreement with the Commission under the Commission’s *Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct*<sup>4</sup> in November 2022 in relation to both the First and Second Proceedings<sup>5</sup>. Pursuant to the terms of the cooperation agreement, ABS will, in both the First and Second Proceedings, admit liability, pay a total pecuniary penalty of HK\$150 million together with the Commission’s investigation and legal costs, and adopt a comprehensive competition compliance programme.

With respect to the proceedings against Johnson Controls and its former employee Mr. Lee, the Commission is seeking remedies before the Tribunal, including:

- (i) Declarations that Johnson Controls has contravened the FCR and that Mr. Lee is a person involved in the contravention;
- (ii) Orders for pecuniary penalties to be imposed on them;

<sup>1</sup> See the Commission’s [press release](#) dated 16 June 2022.

<sup>2</sup> ABS is also a respondent in the First Proceedings.

<sup>3</sup> Johnson Controls Hong Kong Limited and York International (Northern Asia) Limited are sister companies in Hong Kong. Johnson Controls International plc is the ultimate parent company of all the companies in the Johnson Controls group, including the two Hong Kong companies.

<sup>4</sup> See the Commission’s [Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct](#) published in April 2019.

<sup>5</sup> See the Commission’s [press release](#) dated 4 November 2022.



- (iii) As against Johnson Controls, an order for the recovery of the Commission's investigation costs;
- (iv) As against Johnson Controls, an order prohibiting it from engaging in any conduct that constitutes the contravention;
- (v) As against Mr. Lee, an order prohibiting him from engaging in any conduct that constitutes involvement in the contravention;
- (vi) An order requiring Johnson Controls to adopt an effective compliance programme; and
- (vii) As against both sets of Respondents, orders for the recovery of the Commission's costs of the proceedings.

The filing of this case marks the conclusion of the Commission's investigations into the relevant conduct of the respondents in the First and Second Proceedings which the Commission believes had directly or indirectly impacted the sales of over HK\$3 billion worth of air-conditioning works in Hong Kong.

The Commission would like to remind businesses in all sectors to steer clear of anti-competitive practices, while those who have already engaged in cartel conduct should approach the Commission for leniency or offer their cooperation. The Commission also calls on all parties to stay alert and report suspected cases to the Commission.

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