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For Immediate Release

### **Competition Commission takes renovation cartel case to Competition Tribunal**

The Competition Commission (Commission) has today commenced proceedings in the Competition Tribunal (Tribunal) against **three companies**: Goldfield N&W Construction Company Limited (Goldfield), Kam Kwong Engineering Company Limited (Kam Kwong), Pacific View Engineering Limited (Pacific View) and **two individuals**: Mr. CHAN Kam Shui (陳金水) and Mr. LAM Po Wong (林保旺).

The Commission alleges that around June to November 2017, Goldfield, Kam Kwong and Pacific View engaged in cartel conduct, in contravention of the First Conduct Rule of the Competition Ordinance (Ordinance), whereby they allocated customers and coordinated pricing in relation to the provision of renovation services at King Tai Court, San Po Kong, Kowloon, a subsidised housing estate developed by the Hong Kong Housing Authority. The Commission also alleges that Mr. CHAN Kam Shui (陳金水) and Mr. LAM Po Wong (林保旺) were involved in the contravention as a result of their participation in the cartel conduct.

The Commission is seeking remedies including:

- 1) a declaration that Goldfield, Kam Kwong and Pacific View contravened the First Conduct Rule;
- 2) a declaration that Mr. CHAN Kam Shui (陳金水) and Mr. LAM Po Wong (林保旺) were involved in the contravention;
- 3) pecuniary penalties from Goldfield, Kam Kwong, Pacific View, Mr. CHAN Kam Shui (陳金水) and Mr. LAM Po Wong (林保旺);
- 4) a director disqualification order pursuant to s.101 of the Ordinance against Mr. CHAN Kam Shui (陳金水); and
- 5) an order from the Tribunal that these companies and individuals be restrained or prohibited from entering into or participating in any anti-competitive agreements in respect of any renovation projects under the Housing Authority's Decoration Contractor System.

Mr. Brent Snyder, CEO of the Commission, said, "This is the second case in which the Commission has brought an enforcement action against a cartel targeting residents of public housing and we have, for the first time, brought direct enforcement action against individuals who were involved in the conduct. These proceedings drive home the deterrent message that not only companies, but also individuals who engage in cartels may expect to face the full force of the law."

"Combating cartels is an enforcement priority for the Commission. Market participants in all sectors should steer clear of such practices, while those already involved should consider approaching the Commission for leniency."

All parties are encouraged to report suspected anti-competitive practices to the Commission at 3462 2118.

The Commission is thankful to the Hong Kong Housing Authority which has rendered full assistance in the investigation of the case.

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### **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 Competition Ordinance (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 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 price fixing, market sharing and bid-rigging, is generally regarded as a particularly harmful form of anti-competitive agreement or concerted practice.

#### **Persons Involved in Contravention**

Under section 91 of the Ordinance, a person involved in contravention of a competition rule is a person that: attempts to contravene the rule; aids, abets, counsels or procures any other person to contravene the rule; induces or attempts to induce any other person, whether by threats or promises or otherwise, to contravene the rule; is in any way, directly or indirectly, knowingly concerned in or a party to the contravention of the rule; or conspires with any other person to contravene the rule.

#### **Disqualification under the Ordinance**

Section 101 of the Ordinance provides that the Tribunal may order that a person may not, without the leave of the Tribunal: (a) be, or continue to be, a director of a company; (b) be a liquidator or provisional liquidator of a company; (c) be a receiver or manager of a company's property; or (d) in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company; for a specified period of time. Under section 102 of the Ordinance, the Tribunal may only make the above order if the Tribunal has determined that a company of which the person is a director has contravened a competition rule and that the Tribunal considers that the person's conduct as a director makes the person unfit to be concerned in the management of a company.