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For Immediate Release

ATAL Building Services admits liability in air-conditioning works cartel cases and accepts cooperation terms including payment of a penalty of HK\$150 million

The Competition Commission (“Commission”) commenced proceedings¹ in the Competition Tribunal (“Tribunal”) on 16 June 2022 (“first proceedings”) in relation to alleged cartel conduct in the supply of air-conditioning works in Hong Kong.

Today, the Commission announces that *ATAL Building Services Engineering Limited (ABS)*, a respondent in the first proceedings and in further proceedings regarding a related subject that the Commission will shortly commence in the Tribunal (“second proceedings”), has agreed to admit liability and entered into a cooperation agreement with the Commission under the Commission’s *Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct*² (“Cooperation Policy”), and its employees, *Mr. Ser Ka Wai, Eric* and *Ms. Cheng Kit Shun*³, have also agreed to admit liability and entered into separate cooperation agreements with the Commission (collectively “the Cooperating Respondents”).

This will result in the submission of joint applications to the Tribunal seeking orders including:

- Declarations that ABS has contravened the First Conduct Rule (FCR) of the Competition Ordinance, and that Mr. Ser and Ms. Cheng are persons involved in the contravention;
- An order that ABS shall pay a pecuniary penalty of HK\$150 million covering both the first and second sets of proceedings (*calculated in accordance with the Commission’s Policy on Recommended Pecuniary Penalties*⁴); and
- Orders for the recovery of the Commission’s costs of investigation and legal proceedings.

The above applications are subject to the Tribunal’s determination at a later date.

Apart from the abovementioned orders to be sought in the Tribunal, the above respondents, as well as ABS’s parent company Analogue Holdings Limited (AHL), will be required to fulfill a number of additional obligations under the cooperation agreement. These include providing full assistance to the Commission in relation to the first⁵ and second proceedings, and the enhancement of competition compliance measures to the satisfaction of the Commission across the group.

Taking into account the fact that AHL and ABS had actively approached the Commission with a view to resolving the Commission’s enforcement actions and provided their commitment to fulfill

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

² See the Commission’s [Cooperation Policy](#) published in April 2019.

³ Mr. Ser Ka Wai, Eric and Ms. Cheng Kit Shun are respondents in the first proceedings commenced on 16 June 2022.

⁴ See the Commission’s [Policy on Recommended Pecuniary Penalties](#) published in June 2020.

⁵ Other respondents in the first proceedings include *Shun Hing Engineering Contracting Company Limited* and *Shun Hing Holdings Co., Ltd.*, and the relevant individual named.

all obligations in the cooperation agreement, the Commission will exercise its discretion to seek an adjournment of proceedings against AHL in relation to the first set of proceedings⁶, while the proceedings against ABS will still be ongoing.

Mr. Rasul Butt, Chief Executive Officer of the Commission, said, “The cooperation agreements entered into with several respondents in the case represent significant developments in the Commission’s investigation into the multi-year air-conditioning services cartels.

From a law enforcement perspective, the cooperation agreements, subject to acceptance by the Tribunal, will enable the Commission to resolve enforcement cases effectively and efficiently, saving significant time and public resources which would otherwise be spent in a contested hearing, as well as producing immediate results in respect of resolving issues of liability and ensuring compliance. They will also clearly illustrate how the Commission’s Cooperation Policy can offer a valuable opportunity for undertakings to resolve enforcement actions taken against them by admitting their liabilities in a timely manner and accepting terms of cooperation that will duly take into account the timeliness, value and degree of their cooperation.

Legal proceedings against the remaining respondents in the first proceedings are ongoing and the second proceedings will soon commence. As stipulated in the cooperation agreements, the Commission will be aided by the Cooperating Respondents and AHL in these proceedings.

The Commission would like to take this opportunity to urge all companies to comply with Competition Ordinance Cap. 619, and to steer clear of anti-competitive practices. For those who are already involved in cartels, they should approach the Commission as soon as possible for leniency or cooperation.”

The Commission will announce details of the second proceedings in due course.

⁶ The Commission reserves its right to restore the first proceedings against AHL in the event of non-compliance with the terms in the cooperation agreement. Upon AHL and ABS fully discharging their obligations under the cooperation agreement, the Commission will apply to discontinue the first proceedings against AHL.