

29 April 2020

For Immediate Release

Competition Commission welcomes first judgment on pecuniary penalties in Hong Kong competition law regime

The Competition Commission (Commission) welcomes the judgment (Judgment) handed down by the Competition Tribunal (Tribunal) today (29 April) on pecuniary penalties against ten respondent construction and engineering contractors (Respondents) in a market sharing and price fixing case.

In relation to the amount of penalty that was ordered to be paid, the Commission notes that seven out of the ten Respondents in this case have been made to pay the maximum pecuniary penalty¹ allowable under the Competition Ordinance (Ordinance). All of the Respondents have also been ordered to pay the Commission's costs of these proceedings.

The Commission is pleased that the Tribunal endorsed the Commission's recommended approach to the determination of pecuniary penalties. As noted in the Judgment, such an approach will lead to stronger deterrence against persons and undertakings in future.

The decision follows the judgment handed down by the Tribunal in May 2019, finding all ten Respondents liable for contravening the First Conduct Rule of the Ordinance by engaging in market sharing and price fixing in relation to the provision of renovation services at Phase 1 of On Tat Estate, a public rental housing estate in Kwun Tong, Kowloon.

Mr Brent Snyder, CEO of the Commission, said, "We welcome the Tribunal's decision and the penalty imposed on the cartelists. The decision has set an important early precedent providing guidance and clarity on the determination of fines in competition cases."

"This case was the first of the three market sharing and price fixing cases that the Commission has filed so far in relation to the provision of renovation services at public housing, indicating that such practices have been prevalent in the sector. They are particularly egregious because the people directly targeted are some of Hong Kong's most vulnerable consumers. The penalties come as a warning to businesses that engaging in cartel conduct will be subject to the Commission's action and potentially result in serious consequences."

The Commission calls for market participants in all sectors to steer clear from cartel conduct, while those already involved should approach the Commission for leniency or cooperation. All parties are encouraged to report suspected anti-competitive practices to the Commission at 3462 2118.

¹ The maximum pecuniary penalty of a contravention of the Ordinance is up to 10% of the undertaking's annual Hong Kong turnover per contravention for a maximum period of three years.