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For Immediate Release

Competition Commission revises leniency programme for cartel conduct

The Competition Commission (Commission) today published a revised *Leniency Policy for Individuals Involved in Cartel Conduct (Leniency Policy for Individuals)* to offer clearer guidance and enhanced incentives for individuals to cease their involvement in cartel conduct and report to the Commission, which will further strengthen the Commission's cartel detection and enforcement efforts.

Cartel conduct including bid-rigging, price fixing, market sharing and output limitation are categorised as serious anti-competitive conduct under the Competition Ordinance (Ordinance). Over the years, the offering of leniency has been a useful investigative tool for the Commission to uncover new cartel cases and to collect information on cases already on its radar, leading to successful enforcement actions and strengthening deterrence against such conduct.

Under the current leniency framework, leniency is granted to the first cartel member who reports the cartel conduct to the Commission and meets all the requirements for receiving leniency. The Commission agrees not to commence proceedings before the Competition Tribunal against a successful leniency applicant in relation to the conduct covered by the leniency agreement. In this regard, it had published two policies, namely *Leniency Policy for Undertakings Engaged in Cartel Conduct* and *Leniency Policy for Individuals*, to set out the key elements, benefits and application procedures to undertakings and individuals respectively.

The Commission has today revised its *Leniency Policy for Individuals* with the following major revisions:

1. Creating a distinction between applications for leniency based on whether they are received before or after the Commission has commenced initial assessment of or investigation into the conduct. With this revision, leniency is available for the first individual who either:

Type 1. discloses his/her involvement in cartel conduct of which the Commission has not commenced an initial assessment or investigation, or

Type 2. provides substantial assistance to the Commission's investigation and subsequent enforcement action of cartel conduct which the Commission is already assessing or investigating;

and meets all the requirements for receiving leniency.

The Commission will not commence proceedings before the Competition Tribunal against a successful leniency applicant (both Type 1 and Type 2) in relation to the conduct covered by the leniency agreement, including not seeking an order declaring that the successful leniency applicant is involved in the contravention of a competition rule under the Ordinance.

2. Opening up the possibility of leniency for the first individual who reports a cartel to the Commission, even if leniency has already been granted to an undertaking in the same case.

The revised policy emphasises that individual applicants should provide practical assistance to the Commission in order to receive leniency, either by uncovering a case which is unknown to the Commission or by providing substantial assistance in a case already under the Commission's assessment or investigation. The revision also enhances the incentives for an individual involved in a cartel to come forward, as he/she will be eligible for leniency even if an undertaking has been granted leniency in the same case.

As with the previous *Leniency Policy for Individuals*, leniency is not available to individuals who are the ringleaders of the cartel conduct or who have coerced other parties to engage in the cartel conduct.

Where leniency is not available to an applicant, he/she is encouraged to cooperate with the Commission in its investigation. Such cooperation will be taken into account when the Commission considers the proportionate enforcement response in relation to that individual on a case-by-case basis.

The revised *Leniency Policy for Individuals* is now available on the Commission's website at www.compcomm.hk.

The policy takes effect from its date of publication today. Any applications already made under the previous version of the *Leniency Policy for Individuals* will continue to be handled under that version of the policy.
