

29 December 2023

For immediate release

## **Competition Commission accepts commitments offered by Foodpanda and Deliveroo**

The Competition Commission (“Commission”) today announced the acceptance of commitments offered under section 60 of the Competition Ordinance (“Ordinance”) by two leading online food delivery platforms in Hong Kong, namely Delivery Hero Food Hong Kong Limited (“Foodpanda”) and Deliveroo Hong Kong Limited (“Deliveroo”)¹. The acceptance of the commitments will result in amendments to Foodpanda’s and Deliveroo’s respective agreements with their partnering restaurants, and thus addresses the Commission’s concerns about possible contravention of the First Conduct Rule under the Ordinance.

With the commitments coming into effect today, restaurants can now enjoy greater freedom in partnering with more than one online food delivery platform and in pricing menu items across their own channels and other platforms.

As at 29 December 2023, including Foodpanda and Deliveroo, there are five online platforms providing food delivery services in Hong Kong². The Commission’s earlier investigation revealed that Foodpanda’s and Deliveroo’s respective agreements with their partnering restaurants included provisions which may hinder entry and expansion by new or smaller platforms and/or soften competition in the market. Set against the background that each of the two platforms has a certain degree of market power in the online food delivery market, the Commission considers that such arrangements would deprive restaurants and ultimately consumers of the benefits of effective competition.

In order to address the Commission’s competition concerns arising from the investigation, Foodpanda and Deliveroo have each offered commitments to:

- (i) amend provisions to allow restaurants to partner with new entrants and/or small platforms³ without losing the commercial incentives (such as lower commission rates) that restaurants would otherwise be entitled to when they work exclusively with either Foodpanda or Deliveroo;
- (ii) amend provisions to make it easier for restaurants to switch from working exclusively with either Foodpanda or Deliveroo to also partnering with other online food delivery platforms;
- (iii) remove provisions that prevent restaurants from offering lower menu prices to consumers on their own direct channels and/or, in the case of Foodpanda only, on competing online platforms; and
- (iv) in the case of Foodpanda only, remove provisions that require restaurants which use Foodpanda’s food delivery services to also use its order-to-pickup services.

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¹ Deliveroo’s parent company, Deliveroo plc, are also parties to these commitments.

² As mentioned in paragraph 31 of the Notice of Acceptance dated 29 December 2023.

³ The commitments define a small platform as any online food delivery platform which does not exceed a market share of 10% in Hong Kong.

Foodpanda and Deliveroo have offered to make the necessary amendments to existing agreements and communicate the changes to partnering restaurants within 90 days after the commitments enter into force. In the meantime, Foodpanda's and Deliveroo's partnering restaurants are free to work with small food delivery platforms starting from today.

In that regard, the Commission has come to the conclusion, based on available information (including order value data provided by different food delivery platforms), that the online food delivery platform operated by Meituan, branded as KeeTa, does not qualify as a small platform since its market share at present exceeds 10% of the local online food delivery market.<sup>4</sup> As a result, the commitments do not prevent Foodpanda and Deliveroo from requiring their partnering restaurants to refrain from partnering with KeeTa if exclusivity has been agreed between Foodpanda or Deliveroo and their respective partnering restaurants.

The Commission commenced a consultation on the proposed commitments offered by Foodpanda and Deliveroo on 1 June 2023 and another consultation<sup>5</sup> on the fresh commitment proposed by Deliveroo on 10 November 2023. Having carefully considered the representations received in both consultations, the Commission has concluded that it is appropriate to accept the commitments offered by Foodpanda and Deliveroo.

Such commitments have come into effect today and will remain in force for a period of three years,<sup>6</sup> with reporting mechanisms in place to ensure compliance.

The acceptance of Foodpanda's and Deliveroo's commitments also marks the closure of the Commission's investigation into the two platforms, and no proceedings will be filed in the Competition Tribunal against them regarding the matters covered by the commitments.

Mr. Rasul Butt, CEO of the Commission, said, "Ordering food via online food delivery platforms has become a worldwide trend, especially since the COVID-19 pandemic. By accepting the commitments offered by Foodpanda and Deliveroo, the Commission has taken a significant step towards leveling the playing field for businesses already operating in the online food delivery market as well as those who are interested in entering the market. It also accords with the Commission's strategy in prioritising cases that concern people's livelihood and digital economy.

The advantages of accepting the commitments are threefold. While restaurants can enjoy more flexibility in partnering with small platforms and pricing menu items across their dine-in and other delivery channels, new entrants and small platforms can partner with more restaurants and grow their network. Ultimately, end customers will reap the benefits of increased competition between platforms, which include more choices and potentially better services and lower menu prices."

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<sup>4</sup> As mentioned in paragraph 101 of the Notice of Acceptance dated 29 December 2023.

<sup>5</sup> See the Commission's [press release](#) dated 10 November 2023.

<sup>6</sup> The commitments include a release mechanism that allows for flexibility throughout the duration of the commitments, addressing situations where Foodpanda and/or Deliveroo see(s) a decrease in market share.

As set out in section 61 of the Ordinance, the Commission can withdraw its acceptance of commitments in certain circumstances, including where there has been a material change of circumstances or the person giving the commitment has failed to comply with it.

Together with the commitments from Foodpanda and Deliveroo, the Commission has published its notice of acceptance that provides further information on the matter, including responses to various issues raised in the representations submitted during the consultation. These documents are available on the Commission's website at [www.compcomm.hk](http://www.compcomm.hk).

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## **Notes to the Editor**

### Commitments under section 60 of the Ordinance

Under section 60(1) of the Ordinance, the Commission may accept a commitment from a person to (a) take any action, or (b) refrain from taking any action, where it considers this appropriate to address its concerns about a possible contravention of a competition rule.

If the Commission accepts commitments, it will terminate its investigation and not bring proceedings in the Competition Tribunal regarding the matters covered by the commitments. This is subject, however, to the ability of the Commission to withdraw its acceptance of commitments under the conditions provided for in section 61 of the Ordinance, including where there has been a material change of circumstances or the person giving the commitment has failed to comply with it.

The Ordinance does not require parties offering commitments to make any admission of a contravention.