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For Immediate Release

Competition Commission takes cleansing service cartel case before Competition Tribunal

The Competition Commission (“Commission”) has today commenced proceedings in the Competition Tribunal (“Tribunal”) against **two companies**, namely *Hong Kong Commercial Cleaning Services Limited* (“HKC”) and *Man Shun Hong Kong & Kln Cleaning Company Limited* as well as **three individuals**, *Ms. Chan Ming Chu*, *Mr. Cheng Yip Chiu* and *Mr. Cheng Hok Kuen*, who are the directors of the respective companies (collectively, “Respondents”).

It is the Commission’s case that from at least May 2016 to August 2018, the two companies exchanged commercially sensitive information in relation to 17 tenders submitted to the Hong Kong Housing Authority (“HA”) for the procurement of cleansing services for public housing estates and other buildings under HA’s management. The Commission has reasonable cause to believe that such conduct amounts to price fixing, a serious anti-competitive conduct in contravention of the First Conduct Rule of the Competition Ordinance.

The Commission is seeking remedies including:

- a declaration that all Respondents have contravened the First Conduct Rule or involved in the contravention;
- an order for pecuniary penalties to be imposed on all Respondents;
- director disqualification orders against the three individuals;
- orders for the recovery of the Commission’s costs of investigation and proceedings; and
- an order restraining the two companies from engaging in the same conduct in future.

During the course of the Commission’s execution of a search warrant at HKC’s office, certain individuals had tried to delete relevant electronic evidence and the Commission has referred this obstruction of its investigation powers to the Police for criminal investigation.

Mr. Rasul Butt, Chief Executive Officer of the Commission, said, “This case demonstrates the Commission’s focus on cartels that aim to undermine competition in public procurement and anti-competitive conduct that affect people’s livelihood. The cartel conduct in this case affected 17 tenders organised by the Housing Authority with a total contract amount of around HK\$180 million.

Cleansing service is an essential service in both public and private housing and cartel conduct in this sector would potentially affect a large number of households in Hong Kong. The Commission accords priority to combating such conduct which is particularly egregious when it has a wide impact on people’s livelihood.”

The Commission is thankful to the HA which has rendered full assistance in the investigation of the case.

Fact Sheet on Cleansing Service Cartel Case

Background

The Commission received a complaint in December 2017 from a group of complainants, including several cleaning workers working at Hoi Lai Estate (a public housing estate). The complainants alleged that cleansing service contractors, including Hong Kong Commercial Cleaning Services Limited (“HKC”) and Man Shun Hong Kong & Kln Cleaning Company Limited (“MS”), were colluding with each other when bidding for cleansing service contracts from the Hong Kong Housing Authority (“HA”).

Investigation

The Commission conducted an investigation and exercised its compulsory investigatory powers under the Competition Ordinance to obtain documents and information, conduct compulsory interviews with relevant parties as well as conduct searches under warrant on the premises of HKC and MS.

Summary of Findings

Arrangements between HKC and MS

- Sharing of common offices and IT access.
- HKC had allowed MS staff to operate out of the same premises (i.e. HKC’s office).
- There were instances where the same person handled the already completed financial proposals and tendering documents of both HKC and MS

Tendering documents

- Identical or similar pricing were found in HKC and MS’s tendering documents without plausible reasons
- Common mistake in one of HKC and MS’s tenders

The Commission’s case

From at least 27 May 2016 to 21 August 2018, HKC and MS exchanged commercially sensitive information in 17 tenders submitted to the HA for the procurement of cleansing services for public housing estates and other buildings under the HA’s management.

The Commission has reasonable cause to believe that such conduct amounts to price fixing, a serious anti-competitive conduct in contravention of the First Conduct Rule of the Competition Ordinance.

Remedies sought by the Commission

- A declaration that HKC, MS and three individuals (collectively, “Respondents”) have contravened the First Conduct Rule / were involved in the contravention
- An order for pecuniary penalties to be imposed on all Respondents
- Director disqualification orders against the three individuals
- Orders for the recovery of the Commission’s costs of investigation and proceedings

- Order restraining HKC and MS from engaging in the same conduct in future

Obstruction of Search

Staff in HKC's business office were able to access MS's commercially sensitive documents including tender documents in HA contracts and private estates via shortcuts linking HKC's computers to MS's server ("Shortcuts").

During the course of the Commission's execution of a search warrant at HKC's office, a member (or members) of MS and/or HKC had tried to delete certain shortcuts linking the computers of one company to the servers of another company; and numerous commercial documents that may have been relevant to the Commission's investigation. The Commission has referred this obstruction case to the Police.

Under section 54 of the Competition Ordinance, obstruction of the Commission's search is a criminal offence and the maximum penalty is a fine of HK\$1,000,000 and imprisonment for 2 years. Whoever instructs or assists anyone to obstruct the Commission's work is also subject to the same liability.

Maximum penalties of contravention of the Competition Ordinance

Maximum penalties of a contravention of the Competition Ordinance for an undertaking include a pecuniary penalty of up to 10% of the undertaking's annual Hong Kong turnover per contravention for a maximum period of three years.

The Competition Tribunal may also issue orders requiring individuals to pay a pecuniary penalty or disqualifying them from serving as director of a company for a period of up to 5 years.

Additionally, the Competition Tribunal may issue orders requiring payment of damages to any person who has suffered loss or damage as a result of the contravention, or other orders to cease and remedy the contravention at issue.
