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For Immediate Release

Competition Commission consults on proposal to accept commitments offered by Foodpanda and Deliveroo

The Competition Commission (“Commission”) today commenced a consultation on the proposed 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”). The Commission considers that the commitments, if accepted, would address its concerns that certain requirements imposed by Foodpanda and Deliveroo on their partnering restaurants may harm competition, potentially in contravention of the First Conduct Rule of the Ordinance.

The Commission’s investigation revealed that Foodpanda’s and Deliveroo’s respective agreements with partnering restaurants include provisions which:

- (i) allow Foodpanda or Deliveroo to charge partnering restaurants a lower commission rate if they work exclusively with the respective platform (“Exclusive Terms”);
- (ii) restrict restaurants from, or penalise them for, switching from partnering exclusively with Foodpanda or Deliveroo to also partnering with other platforms (“Breach of Exclusivity Provisions”);
- (iii) prevent restaurants from offering lower menu prices to consumers on their own direct channels and/or on competing online platforms (“Price Restriction Provisions”); and
- (iv) in the case of Foodpanda only, require restaurants which use Foodpanda’s food delivery services to also use its order-to-pickup services, whereby consumers can place an order on Foodpanda’s platform and pick it up at the restaurant themselves (“Tying Provisions”).

The Commission considers that these provisions, set against the background that Foodpanda and Deliveroo each have a certain degree of market power in the online food delivery market, may hinder entry and expansion by new or smaller platforms and/or soften competition in the market. This would deprive restaurants and eventually consumers of the benefits of effective competition.

To address the Commission’s concerns, Foodpanda and Deliveroo have each offered to:

- (i) amend the Exclusive Terms, so that restaurants are able to partner with new entrants and small platforms 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 the Breach of Exclusivity Provisions, which would make it easier for restaurants to switch away from working exclusively with either Foodpanda or Deliveroo and also partner with other online food delivery platforms;
- (iii) remove the Price Restriction Provisions, which would enable restaurants to charge lower menu prices on their own channels and on other online food delivery platforms; and

- (iv) in the case of Foodpanda only, remove the Tying Provisions, which would allow restaurants the freedom to choose whether to use Foodpanda’s order-to-pickup services.

Foodpanda and Deliveroo have each offered to make the necessary amendments to their existing agreements and communicate the changes to their respective partnering restaurants within 90 days after the commitments enter into force. The proposed commitments would last for three years¹ from their effective date, with reporting and monitoring mechanisms in place to ensure compliance. The Commission takes the view that the proposed commitments are appropriate to address its concerns and therefore proposes to accept them.

Together with the proposed commitments from Foodpanda and Deliveroo, the Commission has published a notice of the consultation and a set of frequently asked questions to provide further information on the matter. These documents are available on the Commission’s website at www.compcomm.hk.

Interested parties are now invited to submit representations on the proposed commitments, including the Commission’s proposed acceptance of these commitments, no later than 18:00 on 15 June 2023.

All representations received by the deadline will be considered by the Commission and posted on its website before a decision on whether to accept the proposed commitments is made. If a representation contains confidential information, a non-confidential version of the representation should also be submitted.

¹ The offered commitments include a release mechanism that allows for flexibility throughout the duration of the commitments, addressing situations where Foodpanda/Deliveroo sees a decrease in market share.