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For Immediate Release

## Competition Commission takes air-conditioning works cartel case to Competition Tribunal

The Competition Commission (“Commission”) has today commenced proceedings in the Competition Tribunal (“Tribunal”) against two undertakings and three individuals, namely:

1. ***ATAL Building Services Engineering Limited*** and ***Analogue Holdings Limited*** (“Analogue”);
2. ***Shun Hing Engineering Contracting Company Limited*** and ***Shun Hing Holdings Co., Ltd.*** (“Shun Hing”);
3. ***Mr. SER Ka Wai, Eric***, Senior Engineer of Analogue (“Mr. Ser”);
4. ***Ms. CHENG Kit Shun***, Senior Engineer of Analogue (“Ms. Cheng”); and
5. ***Mr. KWAN Siu Kin, Ken***, Senior Manager of Shun Hing (“Mr. Kwan”).

It is the Commission’s case that two competing providers of air-conditioning works, Analogue and Shun Hing, engaged in serious anti-competitive conduct in contravention of the First Conduct Rule of the Competition Ordinance (Cap. 619) whereby they fixed prices, shared markets and/or rigged bids in relation to the supply of air-conditioning works in Hong Kong from 14 December 2015 to 4 December 2019.

The Commission is seeking remedies before the Tribunal, including:

- Declarations that Analogue and Shun Hing have contravened the First Conduct Rule and that Mr. Ser, Ms. Cheng and Mr. Kwan are persons involved in the contravention;
- Orders for pecuniary penalties to be imposed on them;
- As against Analogue and Shun Hing, orders for the recovery of the Commission’s investigation costs;
- As against Analogue and Shun Hing, orders prohibiting them from engaging in any conduct that constitutes the contravention;
- As against Mr. Ser, Ms. Cheng and Mr. Kwan, orders prohibiting them from engaging in any conduct that constitutes involvement in the contravention;
- Orders requiring Analogue and Shun Hing to adopt an effective compliance programme; and
- As against all of the Respondents, orders for the recovery of the Commission’s costs of the proceedings.

The Commission has identified other potentially anti-competitive conduct in relation to air-conditioning works and may commence further proceedings in the Tribunal in the near future.

Mr. Rasul Butt, Chief Executive Officer of the Commission, said, “Today’s enforcement action exposes and tackles a multi-year cartel formed between two established companies in the provision of air-conditioning services in Hong Kong. With air-conditioning being a modern necessity, the

cartel affected many members of the public residing and working in residential and commercial buildings. The enforcement action today further demonstrates that disrupting hardcore cartels that affect people’s livelihood, especially when the companies involved are major players in the relevant market, will continue to be one of the Commission’s top priorities.”

“The case also highlights the need for parent companies to ensure all members of their group abide by the Competition Ordinance. This principle has been reiterated by the Court of Appeal’s judgment on pecuniary penalties in another case<sup>1</sup> recently, which affirmed that the Commission may, in addition to parties which directly participated in the contravention, bring action against any entity comprised in the same undertaking for the full unmitigated penalty.”

“Parent companies should be aware of their potential legal liabilities should their subsidiaries carry out anti-competitive activities, and actively take measures to ensure full compliance with the Ordinance within their corporate groups,” Mr Butt added.

The Commission also calls on businesses in all sectors to steer clear of anti-competitive practices, while those already involved in cartel conduct should approach the Commission for leniency or cooperation.

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<sup>1</sup> See the Commission’s [press release](#) dated 2 June 2022.