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For Immediate Release

### **Competition Commission welcomes judgment in IT cartel conduct case**

The Competition Commission (Commission) welcomes the judgment handed down by the Competition Tribunal (Tribunal) today (3 November) in proceedings involving the exchange of competitively sensitive information in the IT sector.

The judgment was issued following a joint application to the Tribunal by Quantr Ltd. and its director Mr. Cheung Man Kit (Respondents) and the Commission for various orders to be made against the Respondents, in order to dispose of the proceedings by consent. In the application, the Respondents admitted liability for their participation in cartel conduct in relation to a bidding exercise organised by the Ocean Park Corporation (Ocean Park) in 2017 for the procurement of IT services based on Nintex technology (Bidding Exercise).

The Tribunal today granted the orders sought by the Commission and the Respondents in the joint application. In particular, it has ruled that the Respondents contravened or were involved in the contravention of the First Conduct Rule of the Competition Ordinance by engaging in the exchange of future pricing information in the Bidding Exercise, which amounted to price fixing. The Tribunal has ordered Quantr to pay a pecuniary penalty of HK\$37,702 and that both Respondents pay the Commission's costs of proceedings. The Tribunal has also suspended the remaining claims originally sought by the Commission, including the director disqualification order against Mr. Cheung, on condition that the Respondents conduct a competition compliance programme for all of its staff.

This case marks several important enforcement milestones for the Commission. It is the first case in which the Commission and the Respondents reached agreement to resolve both the liability and relief portions of the proceedings by consent, and did so at an early stage, saving both sides significant time and costs. It also represents the first set of proceedings in Hong Kong's competition regime resulting from a successful leniency application. The Commission also made use of an infringement notice as a remedy for the first time, in order to resolve the matter with respect to Nintex Proprietary Limited (Nintex), which also participated in the cartel conduct. Nintex accepted the infringement notice and committed to strengthen its competition compliance programme. As a result, it was not named as a respondent in the proceedings.

Finally, this case sends home the message that all businesses which seek to undermine competition by sharing competitively sensitive information, in particular future price intentions, should expect to face the full force of the law. Businesses in all sectors should steer clear of such practices, while those already involved should approach the Commission for leniency or cooperation.

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