

24 May 2016

## **Competition Commission announces results of its study into aspects of the residential building renovation and maintenance market**

The Competition Commission (Commission) today (24 May) released a report outlining the results of its study into certain aspects of the residential building renovation and maintenance market. The study was undertaken in response to public concerns over alleged collusive activities in the market, and to enable the Commission to better understand this market so as to inform its enforcement and advocacy efforts going forward.

The Commission's study focused on analysing tender data provided by the Urban Renewal Authority and the Hong Kong Housing Society using screening techniques. Based on the residential building projects examined, the results of the Commission's screening analyses would be consistent with the widely held belief that bid-manipulation practices occurred in the residential building renovation and maintenance market in Hong Kong in the recent past.

The Commission carried out two complementary screening analyses that utilised confidential tender records for some 500 past projects. The tenders were for the appointment of consultants to plan and oversee renovation and maintenance projects and the appointment of contractors to carry out the renovation works.

One screen focused on tender participation and tender success. The analysis found indications of consultants and contractors / different contractors participating in the same tenders more often than would be expected if decisions to participate were made independently. Where there appeared to be associations between contractors and consultants as well as between certain contractors, the contractors were more likely to win a tender.

In a separate analysis, screens were used to examine if the bid amounts observed reflected the costs of providing the underlying services. The results suggested that bidding patterns of consultants often appear out of line with the underlying costs. This pattern appears inconsistent with a competitive environment where a positive link between cost and the bid submitted should be observed.

On their own, screening results are not conclusive proof of collusive activities having actually taken place. The purpose of such screens is primarily to identify patterns that are suspicious in order to focus an investigation and decide where to look more closely for additional evidence.

The Commission therefore has not concluded that any specific bid was manipulated or that the conduct underlying the observed patterns would have contravened the Competition Ordinance (Ordinance) had it been in full effect at the relevant time. Moreover, as the study relates to activities that occurred before the full commencement of the Ordinance, the conduct studied would not likely constitute a contravention of the competition rules.

If the Commission were to encounter similar patterns to those detected in this market study today using more recent data, it would very likely investigate further. If such investigations uncover evidence of bid-rigging cartels contravening the First Conduct Rule, such conduct

would be expected to attract significant penalties under the law.

Mr. Rasul Butt, Senior Executive Director (Acting) of the Commission, said:

“Now that the Ordinance is in full force, the results of this study will be used to inform the Commission’s enforcement and advocacy activities. Market participants are strongly advised to bid for projects on a competitive basis. Those contemplating rigging a bid should abandon such projects, while those already involved in rigging bids should consider approaching the Commission for leniency. Members of the public should also be alert and report any potential bid-rigging to the Commission for further investigation. The Commission will use the full extent of its powers to end bid-rigging cartels.

The Commission also calls upon relevant industries and professional bodies to develop and strengthen the codes of conduct for their members which give due regard to the competition rules. The Commission stands ready to facilitate such exercises.

Both the public and private sectors should also work on collecting and building databanks on building maintenance-related tenders as such information are essential for analysis which could potentially be used to detect competition law violations.

This study also provides an opportunity for the Commission to share knowledge with relevant government departments and public authorities to assist them to identify where potentially anti-competitive bid-rigging conduct has occurred, and measures that can be taken to minimise the risk of it occurring in the future. Additionally, where the Commission identifies bid-manipulation that is unlikely to contravene the Ordinance, but may be an offence under other laws, the Commission will refer relevant cases to the appropriate authorities such as the Police and the ICAC.”

To further educate and reach out to the community on the topic, the Commission will soon launch a "Fighting Bid-rigging Cartels" Campaign with a series of advocacy initiatives including TV announcements, educational videos, brochures and roving exhibitions on the topic.

Separately the Commission is also undertaking a study of the auto fuels market. As the scope of that study has recently been expanded and more information and data are being collected for analysis, the results of that study are not expected to be released until the latter part of the year.