

31 July 2024

For immediate release

Competition Commission welcomes judgment in first cartel case relating to government subsidy scheme

Further to the orders¹ issued by the Competition Tribunal (“Tribunal”) in June 2024, the Tribunal handed down the judgment yesterday regarding the legal proceedings involving cartel conduct when providing quotations for IT solutions in applications for government subsidy under the Distance Business Programme (D-Biz)². The judgment includes, for the first time, the granting of reliefs by the Tribunal under Rule 76 of the Competition Tribunal Rules, Cap 619D (“CTR”) as a result of the respondents failing to file a response. The Competition Commission (“Commission”) welcomes the judgment.

Two of the respondents, Ms. Au Yeung Kit Yee trading as Yat Ying Hong (“Yat Ying”) and in her personal capacity (“Ms. Au Yeung”), and Mr. Fan Sing Chi (“Mr. Fan”), a representative of Yat Ying and BP/Noble, have failed to file a response in the proceedings. On this basis, the Commission applied to the Tribunal under Rule 76 of the CTR for an order granting the reliefs sought against them. The Tribunal ordered Ms. Au Yeung and Mr. Fan to pay pecuniary penalties of HK\$242,000 and HK\$160,000 respectively.

In addition, the Tribunal also ordered both of them to pay the litigation costs incurred by the Commission in the proceedings, and Ms. Au Yeung, trading as Yat Ying, is also required to pay the Commission’s investigation costs.

Regarding the other settling respondents in the case, the Tribunal, following the joint applications by the Commission and the settling parties to dispose of the proceedings with agreed facts, has earlier ordered them to pay pecuniary penalties totalling HK\$1.31million and the Commission’s litigation and/or investigation costs.

The judgment marks the first time in which the Commission applied for an order under Rule 76 of the CTR where some respondents had failed to file a response. It drives home the message that while an undertaking or individual facing enforcement proceedings commenced by the Commission before the Tribunal has the choice of settling the proceedings or defending themselves in a contested manner, ignoring the proceedings should never be an option. The Commission can apply to the Tribunal to enter judgment against a respondent who chooses to disregard the proceedings.

The Commission also reiterates that combating attempts to exploit public funding or government subsidy schemes through anti-competitive practices remains one of its enforcement priorities. The Commission will continue to safeguard these valuable public resources from being taken advantage of by business undertakings or individuals engaged in cartel conduct.

¹ See the Commission’s [press release](#) dated 7 June 2024.

² D-Biz was a funding scheme launched by the Innovation and Technology Commission under the Government’s Anti-Epidemic Fund to support local enterprises to adopt IT solutions to continue their businesses and services during the COVID-19 epidemic. The Hong Kong Productivity Council was the Secretariat of the programme.