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For immediate release

## **Competition Commission welcomes Tribunal’s orders in first cartel case relating to government subsidy scheme**

The Competition Commission (“Commission”) welcomes the orders granted by the Competition Tribunal (“Tribunal”) today in legal proceedings<sup>1</sup> concerning cartel conduct when providing quotations for IT solutions in applications for government subsidy under the Distance Business Programme (D-Biz)<sup>2</sup>.

The orders were granted on the basis of the joint applications filed with the Tribunal by the Commission and the settling parties to dispose of the proceedings with agreed facts. The settling parties are:

- Multisoft Limited and its parent company MTT Group Holdings Limited;
- BP Enterprise Company Limited and Noble Nursing Home Company Limited (“BP/Noble”);
- KWEK Studio Limited (“KWEK”);
- Mr. TANG Wai Chun, a director and shareholder of KWEK (“Mr. Tang”).

In the joint applications, Multisoft Limited, BP/Noble, KWEK and Mr. Tang admitted liability for their contravention of the First Conduct Rule of the Competition Ordinance (“Ordinance”) or involvement in the contravention by engaging in price-fixing, market-sharing, bid-rigging and/or sharing competitively sensitive information when providing quotations for IT solutions in applications for D-Biz between May 2020 and September 2021.

The Tribunal ordered the payment of the following pecuniary penalties:

- Multisoft Limited: HK\$1,190,000 (after applying a cooperation discount of 18%) (the payment of which is guaranteed by MTT Group Holdings Limited);
- BP/Noble: HK\$90,000 (after applying a cooperation discount of 25%); and
- Mr. Tang: HK\$32,000 (after applying a cooperation discount of 20%).

The Tribunal also ordered Multisoft Limited, BP/Noble and KWEK to pay the Commission’s investigation costs, whereas all the settling parties were ordered to pay the litigation costs incurred by the Commission in the proceedings. In addition, the Tribunal ordered that Mr. Tang be disqualified from acting as a director in any company for a period of two years.

In relation to two other respondents in the case, 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, they have failed to file a response in the

<sup>1</sup> See the Commission’s [press release](#) dated 22 March 2023.

<sup>2</sup> 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.

proceedings. On this basis, the Commission applied to the Tribunal under Rule 76 of the Competition Tribunal Rules, Cap 619D (“CTR”) for an order granting the reliefs sought against them. The application is pending determination by the Tribunal at a later date.

Mr. Rasul Butt, Chief Executive Officer of the Commission, said, “Combating anti-competitive conduct that aims to abuse public funding is one of the top priorities of the Commission and this is the first cartel case of its kind in Hong Kong. There were also other “firsts” involved in this case including:

- (i) the use of data screening techniques to identify suspicious patterns that might be indicative of anti-competitive conduct; and
- (ii) the successful collaboration with a public body i.e. Hong Kong Productivity Council which provided crucial information and data to the Commission for screening and which helped the Commission build a strong case against the relevant parties.”

The Commission would like to reiterate that any attempt to exploit public funding or government subsidy schemes through anti-competitive means will be confronted head-on. The Commission stands ready to collaborate with government departments and public bodies in combating such abuse with a view to further protecting procurement processes that involve public funding, and safeguarding fair competition to the benefits of the general public.

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