

SFC commences MMT proceedings against Fujikon and its senior executives for late disclosure of inside information

10 Apr 2018

The Securities and Futures Commission (SFC) has commenced proceedings in the Market Misconduct Tribunal (MMT) against Fujikon Industrial Holdings Limited (Fujikon) for failing to disclose inside information as soon as reasonably practicable on the discontinuance of headphone production for one of the company's top customers (Note 1).

The SFC has also commenced proceedings in the MMT against Mr Yeung Chi Hung, the Chairman, Chief Executive Officer and Executive Director of Fujikon, and Ms Chow Lai Fung, the Chief Financial Officer, Company Secretary and Executive Director of Fujikon, for their reckless or negligent conduct causing Fujikon's alleged breach of the requirements under the statutory corporate disclosure regime. The SFC also alleges that Yeung and Chow failed to take all reasonable measures to ensure that proper safeguards exist to prevent the alleged breach of the regime (Note 2).

The SFC found that on 12 April 2014, a subsidiary of Fujikon was notified by its top customer that a particular headphone manufactured for that customer would be discontinued. The headphone, the only product that Fujikon manufactured for that customer, generated revenue of approximately \$157 million and \$210 million for the years ended 31 March 2013 and 31 March 2014, respectively – approximately 10 per cent and 14 per cent of the revenue of Fujikon and its subsidiaries in those two years was attributable to revenue derived from the manufacture of the headphone.

The SFC alleges that the discontinuance of the headphone production was specific information relating to Fujikon, price sensitive and not generally known to those who were accustomed to deal in Fujikon shares at the material time. The information would likely have materially affected Fujikon's share price had it been known to those investors (Note 3).

The SFC further alleges that Yeung and Chow, who were senior management of Fujikon at the material time, became aware of the discontinuance of the headphone production on or about 12 and 16 April 2014. However, they failed to take steps to cause the Board of Fujikon to disclose the inside information to the public as soon as reasonably practicable and Fujikon only issued an announcement about the discontinuance of headphone production on 6 June 2014 – a delay of more than seven weeks in disclosing the matter to the public.

End

Notes:

1. Fujikon was listed on the Main Board of The Stock Exchange of Hong Kong on 11 April 2000.
2. The statutory corporate disclosure regime under the Securities and Futures Ordinance came into effect on 1 January 2013.
3. The announcement was published after market close on 6 June 2014. The share price of Fujikon fell 11.42 per cent from \$2.19 on 6 June 2014 to \$1.94 on the following trading day on 9 June 2014, and continued on a downward trend until 17 June 2014.
4. A copy of the SFC's Notice commencing the MMT proceedings is available on the MMT's website (www.mmt.gov.hk).

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**IN THE MATTER OF THE LISTED SECURITIES OF
FUJIKON INDUSTRIAL HOLDINGS LIMITED
(STOCK CODE: 927)**

**NOTICE TO THE MARKET MISCONDUCT TRIBUNAL
PURSUANT TO SECTION 307I(2) OF AND SCHEDULE 9 TO THE
SECURITIES AND FUTURES ORDINANCE CAP. 571
(THE “ORDINANCE”)**

Whereas it appears to the Securities and Futures Commission (the “**Commission**”) that a breach of a disclosure requirement within the meaning of sections 307A, 307B and 307G of Part XIVA of the Ordinance has or may have taken place in relation to the securities of Fujikon Industrial Holdings Limited (Stock Code: 927) listed on the Stock Exchange of Hong Kong (the “**SEHK**”), the Market Misconduct Tribunal is hereby required to conduct proceedings and determine:

- (a) whether a breach of a disclosure requirement has taken place; and
- (b) the identity of any person who is in breach of a disclosure requirement.

**Persons and/or corporate bodies appearing to the Commission to have
breached or may have breached a disclosure requirement**

- (1) Fujikon Industrial Holdings Limited (“**Fujikon**”)
- (2) Yeung Chi Hung (“**Johnny Yeung**”)
- (3) Chow Lai Fung (“**Dorothy Chow**”)

Statement for Institution of Proceedings

- 1. Fujikon has been listed on the Main Board of the SEHK since 11 April 2000. At the material times, Fujikon and its subsidiaries (the “**Group**”)

were principally engaged in the design, manufacture, marketing and trading of electro-acoustic products, accessories and other electronic products.

2. At all material times, Johnny Yeung and Dorothy Chow were executive directors of Fujikon. In particular, Johnny Yeung was the Chairman and Chief Executive Officer of Fujikon, whereas Dorothy Chow was the Chief Financial Officer and Company Secretary of the Group.
3. By virtue of their positions at Fujikon, Johnny Yeung and Dorothy Chow were at all material times “officers” of Fujikon as defined in section 1 of Part 1 of Schedule 1 to the Ordinance.
4. On 12 April 2014, one of Fujikon’s top customers, Beats by Dr. Dre (“Beats”), notified Fujikon Industrial Company Limited (“Fujikon Industrial”), a wholly owned subsidiary of Fujikon the board of which, at all material times, comprised the executive directors of Fujikon i.e. including Johnny Yeung and Dorothy Chow, that the wireless 1.5 headphone (the “Headphone”) which Fujikon manufactured for Beats would be discontinued (the “Discontinuance”).
5. The Headphone was the only product manufactured by Fujikon for Beats. It generated revenue of approximately HK\$157 million for the year ended 31 March 2013 and approximately HK\$210 million for the year ended 31 March 2014. Approximately 10% and 14% of the Group’s revenue in those two years was attributable to revenue derived from the manufacture of the Headphone.
6. The Discontinuance was “inside information” within the meaning of section 307B of the Ordinance in that it was specific information relating to Fujikon, and was not generally known to the persons who were

accustomed or would be likely to deal in the listed securities of Fujikon but would, if generally known to them, have been likely to materially affect its share price.

7. Such inside information came to the knowledge of Johnny Yeung and Dorothy Chow on or about 12 April 2014 and 16 April 2014 respectively in the course of performing their functions as officers of Fujikon.
8. Further or alternatively, the Discontinuance came to, or ought reasonably to have come to, the knowledge of other officers of Fujikon, namely Li Kai Chuen, Thompson, Executive Vice President of Business Development of Fujikon Industrial, and/or Lee Yik Wai, Paul, Vice President of the Sales and Marketing Division of Fujikon Industrial, on or about 14 April 2014 in the course of performing their functions as officers of Fujikon.
9. Further, a reasonable person acting as an officer of Fujikon would have considered that the Discontinuance was inside information in relation to Fujikon.
10. There was substantial delay on the part of Fujikon and its officers in disclosing the inside information to the public:
 - 10.1. After the Discontinuance had come to the knowledge of Fujikon, there was no discussion as to whether the Discontinuance should be disclosed to the public until 30 May 2014. This was despite the fact that a Board meeting of Fujikon was held on 2 May 2014 (which Johnny Yeung and Dorothy Chow attended) and two internal meetings attended by the senior management of Fujikon Industrial were held on 13 May 2014 and 27 May 2014 respectively (which Johnny Yeung and Dorothy Chow also attended and at which the matter relating to the loss of Beats as a customer was discussed).

- 10.2. At a Board meeting held on 30 May 2014, it was resolved that Dorothy Chow was to consult Fujikon's legal advisers as to whether the Discontinuance should be disclosed.
- 10.3. The Discontinuance was disclosed to the public on 6 June 2014 (more than 7 weeks after it came to the knowledge of Fujikon) via an announcement entitled "(1) Profit Warning Announcement – Further Information; and (2) Inside Information" (the "**Announcement**") wherein the Board announced that "... *the Group was informed by one of its customers that a particular product manufactured for such customer would be discontinued. Such customer has not placed any order for such product with the Group since its last shipment in April 2014. Such product had generated revenue of approximately HK\$157 million for the year ended 31 March 2013 (attributable to approximately 10% of the Group's revenue) and approximately HK\$210 million for the year ended 31 March 2014 (attributable to approximately 14% of the Group's revenue)...*"
11. By reason of the matters aforesaid, Fujikon was, or may have been, in breach of the disclosure requirement under s.307A(2) and s.307B of the Ordinance.
12. It was the responsibility of Johnny Yeung and Dorothy Chow, as officers of Fujikon, to take all reasonable measures from time to time to ensure that proper safeguards exist to prevent a breach of the disclosure requirement by Fujikon under the Ordinance (s.307G(1) of the Ordinance). Moreover, as officers of Fujikon, Johnny Yeung and Dorothy Chow are themselves in breach of the disclosure requirement if the breach of the disclosure requirement by Fujikon was the result of their reckless or negligent

conduct (s.307G(2)(a) of the Ordinance), or their failure to take all reasonable measures from time to time to ensure that proper safeguards exist to prevent the breach (s.307G(2)(b) of the Ordinance).

13. Both Johnny Yeung and Dorothy Chow were aware of the Discontinuance long before (more than 7 weeks before) the publication of the Announcement. However, they failed to take steps to cause the Board of Fujikon to disclose the information about the Discontinuance to the public as soon as reasonably practicable. Such failure amounted to reckless or negligent conduct on the part of Johnny Yeung and Dorothy Chow. Their recklessness or negligence resulted in, or may have resulted in, Fujikon's breach of the disclosure requirement. In these circumstances, both Johnny Yeung and Dorothy Chow were, or may have been, in breach of the disclosure requirement pursuant to s.307G(2)(a) of the Ordinance.
14. Further or alternatively, neither Johnny Yeung nor Dorothy Chow took all reasonable measures to ensure that proper safeguards exist to prevent the breach of the disclosure requirement by Fujikon. In these circumstances, both Johnny Yeung and Dorothy Chow were, or may have been, also in breach of the disclosure requirement pursuant to s.307G(2)(b) of the Ordinance.

Dated this 28th day of March 2018.

Securities & Futures Commission

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