

23 May 2023

For Immediate Release

Competition Commission commences second set of proceedings concerning air-conditioning works in Competition Tribunal

As foreshadowed in the filing of a set of legal proceedings¹ on 16 June 2022 in relation to suspected cartel conduct in the supply of air-conditioning works in Hong Kong (“First Proceedings”), the Competition Commission (“Commission”) has today commenced further proceedings (“Second Proceedings”) in the Competition Tribunal (“Tribunal”) against two undertakings and one individual, namely:

1. *ATAL Building Services Engineering Limited* (ABS)²;
2. *Johnson Controls Hong Kong Limited, York International (Northern Asia) Limited* and *Johnson Controls International plc* (“Johnson Controls”)³; and
3. *Mr. LEE Yui Ming, Jimmy*, former Assistant Service Manager of Johnson Controls (“Mr. Lee”).

It is the Commission’s case that two competing providers of air-conditioning works, Johnson Controls and ABS, had engaged in serious anti-competitive conduct in contravention of the First Conduct Rule (FCR) of the Competition Ordinance (“Ordinance”) whereby they fixed prices, shared markets and/or rigged bids in relation to the supply of air-conditioning works in Hong Kong from 14 December 2015 to 24 June 2018. It is also the Commission’s case that Mr. Lee was a person involved in the contravention.

ABS has previously entered into a cooperation agreement with the Commission under the Commission’s *Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct*⁴ in November 2022 in relation to both the First and Second Proceedings⁵. Pursuant to the terms of the cooperation agreement, ABS will, in both the First and Second Proceedings, admit liability, pay a total pecuniary penalty of HK\$150 million together with the Commission’s investigation and legal costs, and adopt a comprehensive competition compliance programme.

With respect to the proceedings against Johnson Controls and its former employee Mr. Lee, the Commission is seeking remedies before the Tribunal, including:

- (i) Declarations that Johnson Controls has contravened the FCR and that Mr. Lee is a person involved in the contravention;
- (ii) Orders for pecuniary penalties to be imposed on them;

¹ See the Commission’s [press release](#) dated 16 June 2022.

² ABS is also a respondent in the First Proceedings.

³ Johnson Controls Hong Kong Limited and York International (Northern Asia) Limited are sister companies in Hong Kong. Johnson Controls International plc is the ultimate parent company of all the companies in the Johnson Controls group, including the two Hong Kong companies.

⁴ See the Commission’s [Cooperation and Settlement Policy for Undertakings Engaged in Cartel Conduct](#) published in April 2019.

⁵ See the Commission’s [press release](#) dated 4 November 2022.



- (iii) As against Johnson Controls, an order for the recovery of the Commission's investigation costs;
- (iv) As against Johnson Controls, an order prohibiting it from engaging in any conduct that constitutes the contravention;
- (v) As against Mr. Lee, an order prohibiting him from engaging in any conduct that constitutes involvement in the contravention;
- (vi) An order requiring Johnson Controls to adopt an effective compliance programme; and
- (vii) As against both sets of Respondents, orders for the recovery of the Commission's costs of the proceedings.

The filing of this case marks the conclusion of the Commission's investigations into the relevant conduct of the respondents in the First and Second Proceedings which the Commission believes had directly or indirectly impacted the sales of over HK\$3 billion worth of air-conditioning works in Hong Kong.

The Commission would like to remind businesses in all sectors to steer clear of anti-competitive practices, while those who have already engaged in cartel conduct should approach the Commission for leniency or offer their cooperation. The Commission also calls on all parties to stay alert and report suspected cases to the Commission.



2023 年 5 月 23 日

即時發布

競爭事務委員會就涉及空調工程的案件 於競爭事務審裁處展開第二輪訴訟

競爭事務委員會（競委會）於 2022 年 6 月 16 日，就涉及在香港提供空調工程的合謀案件展開法律程序¹（首輪訴訟）。正如當時所預告，競委會今日在競爭事務審裁處（審裁處）展開進一步法律程序，向兩間業務實體及一名人士提起訴訟（第二輪訴訟）。他們是：

1. 安樂機電設備工程有限公司（安樂機電）²；
2. 江森自控香港有限公司、約克國際（北亞）有限公司及 *Johnson Controls International plc*（Johnson Controls）³；及
3. Johnson Controls 前助理服務經理 **李銳明先生**（李先生）。

競委會公布的案情指出，Johnson Controls 及安樂機電兩間互為競爭對手的空調工程供應商，在 2015 年 12 月 14 日至 2018 年 6 月 24 日期間，在香港提供空調工程時合謀定價、瓜分市場及／或圍標。競委會認為，有關行為屬嚴重反競爭行為，違反《競爭條例》（《條例》）的第一行為守則。競委會公布的案情亦指出，李先生牽涉入違反該守則。

安樂機電於 2022 年 11 月，已按照競委會的《為從事合謀行為之業務實體而設的合作及和解政策》⁴，就首輪和第二輪訴訟，與競委會訂立合作協議⁵。根據合作協議條款，安樂機電將就該兩輪訴訟承認法律責任、支付一億五千萬港元罰款及競委會的調查費用及訟費，並推行全面的競爭合規計劃。

在向 Johnson Controls 及其前僱員李先生展開的法律程序中，競委會現正向審裁處申請下列命令：

- (i) 宣布 Johnson Controls 違反了《條例》的第一行為守則，以及宣布李先生牽涉入違反該守則；
- (ii) 向他們施加罰款；
- (iii) 向 Johnson Controls 收取競委會的調查費用；
- (iv) 禁止 Johnson Controls 從事違反該守則的相同行為；
- (v) 禁止李先生從事牽涉入違反該守則的相同行為；
- (vi) Johnson Controls 須推行有效的合規計劃；及
- (vii) 向兩組答辯人收取競委會的訟費。

¹ 詳見競委會於 2022 年 6 月 16 日發布的[新聞稿](#)。

² 安樂機電亦為首輪訴訟的答辯人。

³ 江森自控香港有限公司及約克國際（北亞）有限公司是在香港的姊妹公司。Johnson Controls International plc 則是 Johnson Controls 集團旗下所有公司（包括該兩間香港公司）的最終母公司。

⁴ 詳見競委會於 2019 年 4 月發布的《[為從事合謀行為之業務實體而設的合作及和解政策](#)》。

⁵ 詳見競委會於 2022 年 11 月 4 日發布的[新聞稿](#)。



競爭事務委員會
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本案的入稟，標誌著競委會對首輪及第二輪訴訟答辯人的調查已經結束。競委會相信，兩輪訴訟涉及的行為，對本地空調工程服務構成直接或間接的影響，涉及的工程總額逾 30 億港元。

競委會再次提醒所有企業，不應參與反競爭行為，而已從事合謀行為的人士，則應盡快聯絡競委會申請寬待或提供合作。我們亦呼籲各界保持警覺，並向競委會舉報可疑個案。
