



MEDIA RELEASE

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CCS INVESTIGATES RESTRICTIVE INDUSTRY PRACTICES IN THE SUPPLY OF LIFT SPARE PARTS IN HDB ESTATES

1. The Competition Commission of Singapore (“CCS”) is investigating restrictive industry practices in the supply of lift spare parts¹ in Housing & Development Board (“HDB”) estates. These lift parts are required for the maintenance and servicing of lifts installed in HDB estates.

2. In Singapore, town councils are required to carry out regular lift maintenance for lifts installed in HDB estates.² There are, typically, multiple brands of lifts installed in each HDB estate. Town councils can choose to either appoint the original lift installers of the respective brands to undertake the maintenance services, or to call for a tender to invite companies, including third-party lift maintenance contractors to provide lift maintenance services for all the lift brands of lifts within the estate. CCS understands that there could potentially be cost savings in engaging a third-party lift maintenance contractor for multiple brands as compared to having to procure lift maintenance services from each original lift installer. Lift contractors that wish to tender for lift maintenance projects, which include multiple lift brands, would require brand-specific lift spare parts.

3. Town councils select their lift maintenance contractors based on many factors. Aside from price, town councils should also consider the technical competency of the contractors especially the understanding of maintenance and upkeep of safety features and operating system, availability of genuine spare parts (as this may affect safety and normal operation), response time, relevant experience of service personnel and track record of the company. If the third-party lift maintenance contractors cannot obtain the lift spare parts for each lift brand, town councils would be reluctant to choose third-party lift maintenance contractors (which

¹ These are proprietary spare parts such as electronic controllers and control boards. These spare parts are required for the maintenance, servicing and repairs of the lifts.

² The Building Maintenance and Strata Management (Lift and Building Maintenance) Regulations 2005 require all lifts to be maintained in accordance to the recommendation of Singapore Standard CP2:2000 (Code of Practice for installation, operation and maintenance of electric passenger and goods lifts).

may be able to provide the lift maintenance services at lower cost and better service quality) as compared to the original lift installer.

4. In general, a supplier has the freedom to decide with whom it wants to do business. However, a refusal by a dominant or sole supplier to supply certain essential products or services, that cannot otherwise be obtained, can be illegal and in breach of section 47 of the Competition Act (Cap. 50B). Refusal to provide proprietary but essential lift spare parts to third-party lift maintenance companies by any lift company or distributor may prevent other lift maintenance contractors from effectively competing for contracts to maintain and service lifts of that particular brand in Singapore.

5. Following a complaint received, CCS commenced investigations into the allegation that several companies were refusing to supply lift spare parts for maintenance of lifts in HDB estates. On 12 May 2016, E M Services Pte. Ltd. (“E M Services”) came forward to CCS to provide commitments to supply BLT lift spare parts in Singapore to third-party lift maintenance contractors in Singapore. Following feedback from a public consultation, CCS considers the commitments fully address the competition concerns raised by CCS. The full terms and conditions of the commitment can be found in **Annex A**.

6. Mr. Toh Han Li, Chief Executive of CCS, said:

“CCS notes that the majority of the over 20,000 lifts installed in HDB estates across Singapore are currently being maintained by the Original Equipment Manufacturers (“OEMs”). The inability of third-party lift maintenance contractors to source for original parts, for example lift motherboards, poses significant operational issues for them. CCS understands that other lift maintenance companies including the OEMs may also be involved in such potentially anti-competitive practices. The commitment to supply BLT lift spare parts to third-party lift maintenance contractors was provided voluntarily by E M Services. This will provide more options for HDB lift maintenance, as town councils can choose to call for a single tender for lift maintenance across various lift brands, in lieu of contracting with multiple parties. CCS will continue its other investigations to ensure access to essential lift spare parts for third-party lift maintenance contractors and to effectively compete for lift maintenance of these other brands of lifts.”

7. Businesses that are unsure as to whether their business conduct fully complies with the Competition Act should seek independent legal advice or consider applying for guidance or a decision from CCS.

8. CCS encourages all businesses to proactively put in place competition compliance programmes to ensure their business conduct fully complies with the Competition Act.

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About The Competition Commission of Singapore (CCS)

CCS is a statutory board established under the Competition Act (Chapter 50B) on 1 January 2005 to administer and enforce the Act. It comes under the purview of the Ministry of Trade and Industry. The Act empowers CCS to investigate alleged anti-competitive activities, determine if such activities infringe the Act and impose suitable remedies, directions and financial penalties. More information on the Act, as well as on how to file a complaint or notification for guidance or decision, can be found on CCS's website at www.ccs.gov.sg.

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ANNEX A

1. E M Services Pte. Ltd. (E M Services”) will sell, the lift spare parts of the Shenyang Yuanda Intellectual Industry Group Co., Ltd.³ (“BLT”) brand to a purchaser, based on terms and conditions (e.g. on pricing, quantity, delivery time, and warranty period) reasonably similar to those provided by the relevant lift spare parts manufacturer to E M Services provided that:
 - (a) the purchaser is a lift contractor registered with the Building and Construction Authority under both the ME09 (Lift & Escalator Installation) and RW02 (L2) (Lift Contractors) workheads;
 - (b) the manufacturer is still producing the lift spare parts (i.e. the spare parts are not out of production). For the avoidance of doubt, this does not obligate E M Services to supply out of its inventory stock, although E M Services may choose to do so. If E M Services decides not to supply out of its inventory stock, it shall send an order for the lift spare parts to the manufacturer within 7 working days from the date of receipt of the purchaser’s request to E M Services to purchase the lift spare parts, and provided that the purchaser has already agreed in writing to sub-paragraphs (c) to (h) below;
 - (c) the purchaser agrees to indemnify E M Services if the purchaser causes a lift breakdown, injury, death or any loss whatsoever, due to the purchaser’s negligence;
 - (d) the purchaser undertakes to E M Services not to reverse engineer or otherwise modify the purchased lift spare parts;
 - (e) the purchaser agrees to use the purchased lift spare parts for the relevant brand of lift intended by BLT and the purchaser agrees that E M Services shall not be liable if the purchased lift spare parts are incompatible with the relevant lift to be repaired and/or are obsolete;
 - (f) the purchaser has provided to E M Services, documentary proof that the owner has appointed the purchaser to carry out maintenance of the relevant brand of lift;
 - (g) the purchaser acknowledges that E M Services holds certain rights to several proprietary trademarks, service marks, certification marks, logos and other images and the sale of spare parts to the purchaser does not serve to transfer any rights to the E M Services’ intellectual property. The purchaser is not authorised to use the marks in any way without prior written permission from E M Services. The purchaser shall refrain from any use of the marks regardless of whether such uses would otherwise be considered legally permissible or fair use; and
 - (h) the purchase order provided by E M Services to the purchaser includes the following provision:

³ Formerly known as Shenyang Brilliant Elevator Co., Ltd

“The parties will endeavour to resolve any dispute arising out of or in connection with this agreement amicably by mutual negotiations and discussion in good faith in the first instance, failing which the dispute must be submitted for mediation at the Singapore Mediation Centre (“SMC”) in accordance with SMC’s Mediation Procedure in force for the time being. Either/any party may submit a request to mediate to SMC upon which the other party will be bound to participate in the mediation within 45 days thereof. Every party to the mediation must be represented by senior executive personnel, of at least the seniority of a Head of Department or its equivalent, with authority to negotiate and settle the dispute. Unless otherwise agreed by the parties, the Mediator(s) will be appointed by SMC. The mediation will take place in Singapore in the English language and the parties agree to be bound by any settlement agreement reached”.