



中華人民共和國香港特別行政區政府總部衛生福利及食物局
Health, Welfare and Food Bureau
Government Secretariat, Government of the Hong Kong Special Administrative Region
The People's Republic of China

Our Ref.: () in HWF CR(H) 52/581/89(05)

Tel: 2973 8240
Fax: 2840 0467
2869 4376

16 June 2006

Ms Monna LAI
Assistant Legal Adviser
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Fax: 2877 5029

Dear Ms Lai,

Smoking (Public Health) (Amendment) Bill 2005 (“the Amendment Bill”)

Please find below our response to the questions you raised in the Bills Committee meeting on 15 June 2006 –

- (a) Would the grandfathering-cum-notation approach be in line with the FCTC requirement?

Article 11 of the World Health Organization (WHO) Framework Convention on Tobacco Control (FCTC) stipulates that –

*Each Party shall, within a period of three years after entry into force of this Convention for that Party, adopt and implement, **in accordance with its national law, effective** measures to ensure that tobacco product packaging and labelling do not promote a tobacco product by any means that are false, misleading, deceptive or likely to create an erroneous impression about its characteristics, health effects, hazards or emissions, including any term, descriptor, trademark, figurative or any other sign that directly or indirectly creates the false impression that a particular tobacco product is*

less harmful than other tobacco products. These may include terms such as "low tar", "light", "ultra-light", or "mild". (emphasis added)

The requirement in Article 11 has already taken into account divergent legal regimes and has allowed each party to have its own distinctive way of implementations. Our proposal of having a notation would serve to alert smokers that the use of misleading words does not in any way indicate that cigarettes contained therein are less harmful to health than others.

We believe that the notation approach would help smokers beware from having any false impression that a particular cigarette brand is less harmful than other brands. In this regard, Hong Kong would have fulfilled the above requirement to the maximum extent within the context of its own local laws.

(b) Article 11 of FCTC only suggested terms such as "low tar", "light", "ultra-light", or "mild" might be included in the list of words that might cause false impressions. Why has the Administration decided to go one step forward in stipulating these words in the Bill?

Dr Judith Mackay, Director of the Asian Consultancy on Tobacco Control and also Senior Policy Adviser to WHO, has once said in the Bills Committee that the FCTC only sets the floor for tobacco control efforts. In other words, the framework only provides the minimum that each party should seek to comply with.

We believe that the present drafting would provide certainty for both compliance and enforcement.

Yours sincerely,



(Miss Christine Au)

for Secretary for Health, Welfare and Food