

立法會
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Panel on Commerce and Industry

Meeting on 13 February 2007

**Background Brief on
No Fakes Pledge Scheme**

Purpose

This paper provides the background to the concerns raised by members of the Panel on Commerce and Industry (the Panel) about the "No Fakes Pledge" Scheme ("the NFP Scheme").

Background

2. The NFP Scheme was launched in 1998 by the Intellectual Property Department (IPD) with the aim of encouraging retailers to make a pledge of selling genuine goods, promoting the awareness of intellectual property protection among retailers and consumers alike, so as to enhance tourists' and consumers' confidence about shopping in Hong Kong. Retail merchants which were members of the issuing bodies or supporting organizations of the NFP Scheme could participate in the NFP Scheme on a voluntary basis and they could post the "No Fakes" stickers and tent cards issued by the issuing bodies in their shops. IPD, as the co-ordinator of the NFP Scheme, provided administrative support to the issuing bodies and supporting organizations in their processing and vetting of applications and in handling cases concerning breach of the code of ethics of the NFP Scheme.

3. In September 2005, the Customs and Excise Department (C&ED) detected for the first time the selling of counterfeit pharmaceutical products by a shop participating in the NFP Scheme. Following C&ED's investigation, IPD agreed with issuing bodies and supporting organizations to tighten up the NFP Scheme's code of ethics in order to enhance public confidence in the NFP Scheme. Under the revised code which came into effect on 1 January 2006, IPD and the issuing bodies may terminate a member company's membership immediately if there are reasons to believe that the member company concerned has failed to comply with

the code of ethics or if there is any action taken against it by C&ED. The member company concerned will be asked to return the "No Fakes" sticker and tent card. IPD or the issuing bodies will then disclose the name of the member company alleged to have breached the code of ethics within four days. To ensure fairness, the member company may attend a hearing or submit any written representations stating its views on the matter. The final decision to terminate a member company's membership will rest with the issuing bodies.

4. Also starting from 1 January 2006, the issuing bodies have been reduced to include only five retail organizations¹ while the supporting organizations have been cut down to two, namely the Consumer Council (CC) and C&ED. To participate in the NFP Scheme, a retail merchant must be a member of one of the issuing bodies and has been operating in Hong Kong for more than six months and has passed a no-piracy record test by CC. Whilst the issuing bodies assess membership applications against a prescribed set of rules, members of the issuing bodies can decide through which retail organization they would like to participate in the NFP Scheme based on their own needs. IPD may from time to time discuss cooperation with established and reputable trade organizations with a view to bringing in new organizations representing different retail industries to become the issuing bodies under the NFP Scheme. It is the consensus of the existing participation organizations that any new organizations should also have a memorandum and articles of association which provides for sanctions against any of their members who breach their codes of ethics.

Members' views and concerns

5. The NFP Scheme was discussed at the Panel meeting on 18 April 2006. For the purpose of this meeting, Hon Fred LI Wah-ming had raised a number of questions on the NFP Scheme. Details of the questions and the Administration's response are given in the Administration's paper and in the minutes of the meeting. (See Appendix)

6. Members' views and suggestions made at the Panel meeting are as follows:

- (a) IPD might have given too much power to the issuing bodies without ensuring that they were carrying out their functions properly. Instead of relying on C&ED and CC for record checking, IPD should take more proactive action to ensure that issuing bodies are vigilantly monitoring their members for compliance with the NFP Scheme. C&ED should also strengthen enforcement action and maintain close surveillance over suspected counterfeiting and piracy activities in the market;

¹ The issuing bodies of the NFP Scheme in 2006 are: the Hong Kong & Kowloon Electrical Appliances Merchants' Association Limited, the Hong Kong General Chamber of Pharmacy Limited, the Hong Kong Record Merchants Association Ltd., the Hong Kong Retail Management Association, and the Chamber of Hong Kong Computer Industry.

- (b) there should be an appeal mechanism to enable the member company whose Scheme membership had been terminated to attend a hearing and made representation before the issuing body concerned made a final decision on the case;
- (c) as the coordinator of the NFP Scheme, IPD should organize more promotional activities to encourage retail merchants not to sell or distribute counterfeit or pirated products. With strong marketing support for the NFP Scheme, it would help foster honest and trustworthy trading practices and re-gain confidence of consumers and tourists; and
- (d) reference should be made to the experience of the Quality Tourism Service (QTS) Scheme organized by Hong Kong Tourism Board (HKTB) which aims to enhance the overall service standards and visitors' confidence, particularly in the areas of dining and shopping in Hong Kong. According to the existing practices, HKTB would conduct stringent assessments on shops and restaurants, as well as undertake undercover site inspections, before qualifying the shops/restaurants under the QTS Scheme².

Latest Position

7. The Administration will brief the Panel on whether experience can be drawn from the QTS Scheme for improvement of the NFP Scheme.

Reference

8. A list of relevant papers is in the **Appendix**.

Council Business Division 1
Legislative Council Secretariat
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² QTS-accredited shops and restaurants must pass stringent assessments each year showing that they provide genuine products with clearly displayed prices; display clear product information and/or menus; and ensure superb customer service with front-line staff possessing extensive product knowledge. QTS sign will be displayed prominently by shops and restaurants which have qualified for this exclusive recognition.

List of relevant papers

Committee	Paper	LC Paper No.
Panel on Commerce and Industry	✧ Administration's paper : "No Fakes Pledge"	CB(1)1287/05-06(05)
	✧ Letter dated 6 April 2006 from Hon Fred LI Wah-ming (Chinese version only)	CB(1)1287/05-06(06)
	✧ Minutes of meeting held on 18 April 2006	CB(1)1463/05-06