

Ms Debbie Yau
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Legislative Council Secretariat
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3 March 2008

Dear Ms Yau,

**Bills Committee on
Trade Descriptions (Amendment) Bill 2007**

Issues raised at the meeting on 18 February 2008

I refer to your letter of 19 February 2008. We are examining Members' suggestions in relation to the proposed sections 13A(2) and 13C.

2. We have also attached three tables which provide comparison of the Bill's provisions with overseas legislation.

Yours sincerely,

(Luke Auyeung)
for Secretary for Commerce and Economic Development

Comparison of Legislative Provisions

(Misleading Price Indication)

	Title of Legislation	Scope of Application
Hong Kong	Trade Descriptions (Amendment) Bill 2007	<ul style="list-style-type: none"> • Applicable when goods are displayed with price, and the price comes with the weight unit • Restricted to weight unit (to be expanded to cover all units of quantity) • General provisions on clarity requirement i.e. “not be obscured or inconspicuous” • Applicable to goods only • Applicable to persons
Australia	Trade Practices Act	<ul style="list-style-type: none"> • General provision prohibiting misleading price indication • Applicable to goods and services • Applicable to corporations and persons • Applicable in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion of the supply or use of goods or services
New Zealand	Fair Trading Act	<ul style="list-style-type: none"> • General provision prohibiting misleading price indication • Applicable to goods and services • Applicable to persons • Applicable in trade, in connection with the supply or possible supply of goods or services or with the promotion of the supply or use of goods or services
UK	Consumer Protection Act	<ul style="list-style-type: none"> • General provision prohibiting misleading price indication • Applicable to goods, services, accommodation and facilities • Applicable to persons • Applicable in the course of any business where goods, services, accommodation or facilities are available

	(2) Price Marking Order	<ul style="list-style-type: none"> • General provision stipulating clarity requirements for unit price i.e. “unambiguous, easily identifiable and clearly legible” • Applicable to goods only • Applicable to traders • Applicable when a trader indicates that any product is or may be for sale to a consumer
Malaysia	Consumer Protection Act	<ul style="list-style-type: none"> • General provision prohibiting misleading price indication • Applicable to goods and services • Applicable to persons • Applicable when a person gives a consumer an indication as to the price at which any goods or services are available
Singapore	Consumer Protection (Fair Trading) Act	<ul style="list-style-type: none"> • General provision prohibiting unfair trade practices, <u>plus</u> specific provisions on different malpractices including misleading price indication • Applicable to goods and services • Applicable to suppliers • Applicable when a supplier makes a representation on goods or services in relation to a consumer transaction
US	New York State Weights and Measures Regulations	<ul style="list-style-type: none"> • Specific provisions spelling out the manner and specification which a price should be represented, e.g. price tag to contain certain information, unit price to be stated in specific sizes • Applicable to goods and services • Applicable to retailers of consumer goods • Applicable when consumer commodities subject to unit pricing requirements are displayed for sale

Comparison of Provisions

(Misleading Representations in relation to Seller's Connection with or Endorsement by Others)

	Title of legislation	Scope of application
Hong Kong	Trade Descriptions (Amendment) Bill 2007	<ul style="list-style-type: none"> • Specific provisions prohibiting false or misleading representations in regard to a seller's connection with or endorsement by others • Applicable to goods only • Applicable to persons • Applicable when any person makes a representation in the course of any trade, business or profession • Specifically set out the situations that would constitute "connection with or endorsement by others"
Australia	Trade Practices Act	<ul style="list-style-type: none"> • General provision prohibiting representations in regard to a seller's sponsorship, approval or affiliation that "it does not have" • No particular reference to "false or misleading" misrepresentation • Applicable to goods & services • Applicable to corporations and persons • Applicable in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion of the supply or use of goods or services
New Zealand	Fair Trading Act	<ul style="list-style-type: none"> • General provision prohibiting false or misleading representations in regard to a seller's sponsorship, approval, endorsement or affiliation • No elaboration on what constitutes "misleading" representations • Applicable to goods & services • Applicable to persons • Applicable in trade, in connection with the supply or

		possible supply of goods or services or with the promotion of the supply or use of goods or services
Malaysia	Consumer Protection Act	<ul style="list-style-type: none"> • General provision prohibiting false or misleading representations in regard to a person's sponsorship, approval, endorsement or affiliation • Applicable to goods & services • Applicable to persons, • Applicable when any person makes a representation
US	Trademark Act	<ul style="list-style-type: none"> • General provisions prohibiting false or misleading representations in regard to a person's affiliation, connection or association with another person; or the origin, sponsorship or approval of his goods and services by another person • Applicable to goods & services • Applicable to persons • Applicable when any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol etc.

Comparison of Provisions

(Misleading Representations of After-sale Services)

	Title of legislation	Scope of application
Hong Kong	Trade Descriptions (Amendment) Bill 2007	<ul style="list-style-type: none"> • The existing definition of 'trade description' will be enlarged to cover the availability of facilities for the repair and inspection of goods; warranty so provided; scope and cost of services etc. • Misleading representations in relation to after-sale services will constitute an offence of false trade description • Applicable to persons
Australia	Trade Practices Act	<ul style="list-style-type: none"> • General provision prohibiting false or misleading representations in regard to the availability of facilities for the repair of goods or spare parts for goods; and the existence, exclusion or effect of any warranty, guarantee or remedy etc • Applicable to corporations and persons • Applicable in trade or commerce, in connection with the supply or possible supply of goods or services or in connection with the promotion of the supply or use of goods or services
New Zealand	Fair Trading Act	<ul style="list-style-type: none"> • General provision prohibiting false or misleading representations in regard to the existence, exclusion or effect of any warranty, guarantee or remedy etc • Applicable to persons • Applicable in trade, in connection with the supply or possible supply of goods or services or with the promotion of the supply or use of goods or services

Malaysia	Consumer Protection Act	<ul style="list-style-type: none"> •General provision prohibiting false or misleading representations in regard to the existence, exclusion or effect of any guarantee or remedy etc •Applicable to persons •Applicable when any person makes a representation
Singapore	Consumer Protection (Fair Trading) Act	<ul style="list-style-type: none"> •General provision prohibiting unfair trade practices, <u>plus</u> a more specific provision on misrepresentations in relation to the availability of facilities for the repair of goods or of spare parts for goods •Applicable to suppliers •Applicable when a supplier makes a representation on goods or services in relation to a consumer transaction