

立法會
Legislative Council

LC Paper No. CB(1)1566/07-08
(These minutes have been seen
by the Administration)

Ref : CB1/SS/8/07

**Subcommittee to Study Six Items of Subsidiary Legislation under
the Trade Descriptions Ordinance Gazetted on 18 April 2008**

**Minutes of first meeting on
Tuesday, 6 May 2008, at 2:30 pm
in Conference Room B of the Legislative Council Building**

- Members present** : Hon CHAN Kam-lam, SBS, JP (Chairman)
Hon Fred LI Wah-ming, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon WONG Ting-kwong, BBS
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
- Member absent** : Hon SIN Chung-kai, SBS, JP
- Public Officers attending** : Agenda item II
Ms Annie CHOI Suk-han, JP
Deputy Secretary for Commerce and Economic Development
(Commerce and Industry)³
Mr Luke AU YEUNG Ho-lok
Principal Assistant Secretary for Commerce and Economic
Development (Commerce and Industry)⁶
Mr CHEUNG Sai-yan
Head of Trade Controls
Customs and Excise Department

Mr Gilbert MO Sik-keung
Deputy Law Draftsman
Department of Justice

Ms Karmen KWOK Man-yi
Government Counsel
Department of Justice

Clerk in attendance : Ms Connie SZETO
Chief Council Secretary (1)6

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Debbie YAU
Senior Council Secretary (1)1

Action

I Election of Chairman

Mr Fred LI Wah-ming, the member who had the highest precedence in the Legislative Council (LegCo) among all members of the Subcommittee present, presided over the election of the Chairman of the Subcommittee. He invited nominations for the chairmanship of the Subcommittee.

2. Mr CHAN Kam-lam was nominated by Ms Audrey EU and the nomination was seconded by Mr Vincent FANG. Mr CHAN accepted the nomination. As there was no other nomination, Mr CHAN Kam-lam was elected Chairman of the Subcommittee.

II Meeting with the Administration

(Ref: CITB CR14/18/2

-- Legislative Council Brief issued by the Commerce and Economic Development Bureau

LC Paper No. LS76/07-08

-- Legal Service Division Report on Subsidiary Legislation tabled in the Legislative Council on 23 April 2008

LC Paper No. CB(1)1435/07-08(01)

-- Background brief prepared by the Legislative Council Secretariat

- LC Paper No. CB(1)1435/07-08(02) -- Assistant Legal Adviser's letter dated 23 April 2008 to the Administration
- LC Paper No. CB(1)1435/07-08(03) -- Assistant Legal Adviser's letter dated 28 April 2008 to the Administration
- LC Paper No. CB(1)1435/07-08(04) -- Marked-up copy of Trade Descriptions (Marking) (Gold and Gold Alloy) (Amendment) Order 2008 (Cap. 362 sub. leg. A), Trade Descriptions (Marking) (Platinum) Regulations (Cap. 362 sub. Leg. C) and Trade Descriptions (Definition of Platinum) Regulations (Cap. 362 sub. leg. B) as amended by L.N. 82 to L.N. 84
- LC Paper No. CB(1)1464/07-08(01) -- Administration's response to *(tabled and subsequently issued on 7 May 2008)* Assistant Legal Adviser's letters dated 23 and 28 April 2008)

3. The Subcommittee deliberated (Index of proceedings attached at **Appendix**).

Public consultation

4. The Subcommittee agreed to invite the public to give views on the six items of subsidiary legislation under the Trade Descriptions Ordinance gazetted on 18 April 2008 (the subsidiary legislation) by announcing an invitation for views on the LegCo website, and writing to the 18 District Councils. The Subcommittee also agreed to invite submissions from the organizations which were invited by the Administration to give views on the legislative proposals in the subsidiary legislation.

(Post-meeting note: The Subcommittee posted a notice on the LegCo website on 7 May 2008 and wrote to the 18 District Councils and the organizations concerned to invite submissions by 13 May 2008. Members were informed of the arrangements and invited to propose organizations to be invited to give views vide LC Paper No. CB(1)1467/07-08 issued on 7 May 2008.)

Meeting with deputations

5. The Subcommittee further agreed to meet with deputations and the Administration on Wednesday, 14 May 2008, from 8:30 am to 10:45 am.

(Post-meeting note: Due to unavailability of meeting venue and with the concurrence of the Chairman, the meeting was subsequently re-scheduled to be held on Thursday, 15 May 2008, from 10:45 am to 12:45 pm.)

Schedule of further meetings

6. Members also agreed to schedule two more meetings for the Subcommittee to study the subsidiary legislation with details as follows:

(a) Tuesday, 20 May 2008, at 8:30 am; and

(b) Thursday, 22 May 2008, at 2:30 pm.

Extension of scrutiny period and reporting to the House Committee

7. Members agreed to extend the scrutiny period of the subsidiary legislation to 11 June 2008. The Chairman would move a motion at the LegCo meeting on 14 May 2008 for this purpose. The Subcommittee would report its deliberations to the House Committee on 30 May 2008.

III Any other business

8. There being no other business, the meeting ended at 3:02 pm.

Council Business Division 1
Legislative Council Secretariat
19 May 2008

**Proceedings of the first meeting of
the Subcommittee to Study Six Items of Subsidiary Legislation under
the Trade Descriptions Ordinance Gazetted on 18 April 2008
on Tuesday, 6 May 2008, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000304	Mr Fred LI Ms Audrey EU Mr Vincent FANG Mr CHAN Kam-lam	Election of Chairman	
000305 – 001312	Chairman Clerk Mr Vincent FANG	Dates and purposes of the next three meetings	
001313 – 002050	Chairman Administration	Briefing by the Administration on the six items of subsidiary legislation under the Trade Descriptions Ordinance gazetted on 18 April 2008 (the subsidiary legislation) (Ref. CITB CR14/18/2)	
002051 – 003132	Chairman Assistant Legal Adviser (ALA)	<p><u>Administration's response (LC Paper No. CB(1)1464/07-08(01)) to ALA's letters dated 23 and 28 April 2008 (LC Paper Nos. CB(1)1435/07-08(02) and (03)</u></p> <p>(a) ALA's concern as follows:</p> <p>(i) Paragraph 4 of the existing Trade Descriptions (Marking) (Gold and Gold Alloy) Order (Cap. 362 sub. leg. A) and Trade Descriptions (Marking) (Platinum) Order (Cap. 362 sub. leg. C) required every article of gold or gold alloy or platinum that was supplied or offered for supply to bear a mark which indicated the fineness of the gold or platinum content. The scope was wide enough to cover the manufacturers or their agents supplying the articles to retailers and the retailers supplying the articles at retail level to consumers. However, the proposed addition of "at retail level" to paragraph 4 of the above two Orders in section 2 of L.N. 82 and section 4 of L.N. 83 respectively would have the effect of narrowing the scope of application to retailers only; and</p> <p>(ii) Section 3 of the Trade Descriptions (Provision of Information on Regulated Electronic Products) Order (L.N. 81) required retailers selling mobile phones, digital cameras, digital camcorders, digital audio players and portable multimedia players (regulated electronic products) to issue invoices or receipts containing</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>prescribed information on the products. Section 3 as drafted, appeared to be wide enough to include retailers selling second-hand regulated electronic products. Concern was raised as to whether this reflected the Administration's intention, and if so, whether it had consulted the retailers concerned on whether there would be compliance difficulties</p> <p>(b) The Administration's response as follows:</p> <p>(i) The objective of the subsidiary legislation was to enhance protection for consumers in purchasing jewellery items and popular electronic products which were the subject of frequent complaints relating to false or misleading representations by deceitful retailers in recent years</p> <p>(ii) On the concern in item (a)(i) above, since the retailers supplying the gold or gold alloy or platinum articles would need to comply with the statutory requirements, there would be a knock-on effect on the manufacturers or wholesalers to follow the same requirements when they supplied these articles to retailers. In fact, it was the current trade practice for manufacturers or wholesalers to supply marked articles to retailers upon the latter's request; and</p> <p>(iii) As regards the concern in item (a)(ii) above, the requirements under section 3 of L.N. 81 would equally apply to the sale of second-hand or parallel-imported electronic products. The prescribed information to be contained in the invoices or receipts was basic information relating to the transaction and core features of the electronic products which retailers should be able to provide. The Administration had consulted relevant retailers' associations and they did not raise any concern about difficulties in complying with the requirement</p>	
003133 – 003400	Chairman Administration Clerk	Members' agreement to extend the scrutiny period of the subsidiary legislation	