

立法會
Legislative Council

LC Paper No. CB(1)1848/07-08
(These minutes have been seen
by the Administration)

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

**Minutes of fourth meeting on
Thursday, 22 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 Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Ting-kwong, BBS

Members absent : Hon Fred LI Wah-ming, JP
Hon SIN Chung-kai, SBS, JP
Hon Andrew LEUNG Kwan-yuen, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

Public Officers attending : 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

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

Staff in attendance : Ms Connie FUNG
Assistant Legal Advisor 3

Ms Debbie YAU
Senior Council Secretary (1)1

Action

I Meeting with the Administration

(LC Paper No. CB(1)1604/07-08(01) -- Marked-up copy of Trade Descriptions (Marking) (Gold and Gold Alloy) (Amendment) Order 2008 (L.N. 82 of 2008 as amended by the Administration)

LC Paper No. CB(1)1604/07-08(02) -- Marked-up copy of Trade Descriptions (Marking) (Platinum) (Amendment) Order 2008 (L.N. 83 of 2008 as amended by the Administration)

L.N. No. 84/2008 -- Trade Descriptions (Definition of Platinum) (Amendment) Regulation 2008

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)1604/07-08(03) -- List of follow-up actions arising from the discussion on 20 May 2008 prepared by the Legislative Council Secretariat

- LC Paper No. CB(1)1604/07-08(04) -- Examples of statutory provisions on the Chinese renditions for "principal" in the contexts of "principal function", "principal officer", "principal office" and "principal business address"
- LC Paper No. CB(1)1636/07-08(01) -- Marked-up copy of Trade Descriptions (Provision of Information on Natural Fei Cui) Order (L.N. 79 of 2008 as amended by the Administration) (version as at 22 May 2008)
(tabled and subsequently issued on 23 May 2008)
- LC Paper No. CB(1)1636/07-08(02) -- Marked-up copy of Trade Descriptions (Provision of Information on Regulated Electronic Products) Order (L.N. 81 of 2008 as amended by the Administration) (version as at 22 May 2008)
(tabled and subsequently issued on 23 May 2008)
- LC Paper No. CB(1)1636/07-08(03) -- Administration's response to list of follow-up actions arising from the discussion on 20 May 2008 (LC Paper No. CB(1)1604/07-08(03))
(tabled and subsequently issued on 23 May 2008)

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

Follow-up actions required to be taken by the Administration

Six items of subsidiary legislation under the Trade Descriptions Ordinance (Cap. 362) gazetted on 18 April 2008 (the subsidiary legislation)

2. To address members' concern about the lack of protection for retailers when they were supplied with goods in the course of their business, the Administration undertook to review the subsidiary legislation and consider the need to enhance the protection for retailers in the light of implementation of the new requirements.

Trade Descriptions (Marking) (Platinum) (Amendment) Order 2008 (LC Paper No. CB(1)1604/07-08(02))

3. In response to ALA's view, the Administration agreed to amend the notice in Schedule 3 by adding "(Cap. 362, sub. leg.)" after "Trade Descriptions (Marking) (Platinum) Order".

*Trade Descriptions (Provision of Information on Regulated Electronic Products)
(LC Paper No. CB(1)1636/07-08(02))*

4. In response to ALA's view, the Administration agreed to change the word "carried" to "conducted" in the new section 3(1A) proposed to be added to the Order.

Legislative timetable

5. The Subcommittee had completed scrutiny of the subsidiary legislation and considered the amendments proposed by the Administration. Members noted that the Subcommittee would report its deliberation to the House Committee at its meeting on 30 May 2008. They also noted that the Administration would move motions to amend the subsidiary legislation at the Council meeting on 11 June 2008, and the deadline for giving notice of amendments was 3 June 2008.

II Any other business

6. There being no other business, the meeting ended at 3:30 pm.

Council Business Division 1
Legislative Council Secretariat
11 June 2008

**Proceedings of the fourth meeting of
the Subcommittee to Study Six Items of Subsidiary Legislation under
the Trade Descriptions Ordinance Gazetted on 18 April 2008
on Thursday, 22 May 2008, at 2:30 pm
in Conference Room B of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000753 – 000829	Chairman	Welcoming remarks by the Chairman	
000830 – 000944	Chairman Mr Vincent FANG Administration	Discussion on the use of the English term "fei cui"	
000945 – 003850	Chairman Administration Mr WONG Ting-kwong Mr Vincent FANG Assistant Legal Advisor (ALA)	<p>Clause-by-clause examination of the subsidiary legislation</p> <p><u>Trade Descriptions (Marking) (Gold and Gold Alloy) (Amendment) Order 2008 (L.N. 82 of 2008 as amended by the Administration) (LC Paper No. CB(1)1604/07-08(01))</u></p> <p><i>Proposed sections 1 to 3</i></p> <p>(a) Members did not raise any query</p> <p><i>Proposed section 4</i></p> <p>(b) Mr WONG Ting-kwong's concern about the amendment of adding "at retail level" in paragraph 6(1) of the Trade Descriptions (Marking) (Gold and Gold Alloy) Order (Cap. 362 sub. leg. A) (the principal Order), with elaboration as follows:</p> <p>(i) As the transactions between manufacturers/suppliers and retailers would usually involve much larger sums of money, the former should be required to issue invoices or receipts to retailers; and</p> <p>(ii) The effect of the amendment would narrow the scope of application to retailers only</p> <p>(c) Mr Vincent FANG's concern that the requirement for retailers to display a prescribed notice would affect the design of window display at jewellery shops</p> <p>(d) ALA's advice that the proposed amendment to paragraph 6(1) of the principal Order would not affect the operation of the Trade Descriptions Ordinance (TDO). Any person, including a manufacturer/supplier,</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>who in the course of any trade or business, applied a false trade description to any goods, was subject to the provisions of TDO; and</p> <p>(e) The Administration's responses as follows:</p> <p>(i) The objective of the subsidiary legislation was to enhance protection for consumers. The responsibilities of manufacturers/suppliers to retailers were set out in the contracts entered between them. Nevertheless, the Administration would review the subsidiary legislation and consider the need to enhance the protection for retailers in the light of implementation of the new requirements; and</p> <p>(ii) The prescribed notice must be displayed prominently at the point where goods were supplied or offered so that consumers could read them</p> <p>(f) Discussion on the requirements on the prescribed notice. While it could be displayed horizontally or vertically, the letters and characters appearing on the notice should not be less than 5 mm in height</p> <p><i>Proposed sections 5 to 10</i></p> <p>(g) Members did not raise any query</p>	<p>The Administration to note and take follow-up action as per paragraph 2 of the minutes</p>
<p>003851 – 004234</p>	<p>Chairman Administration ALA</p>	<p><u>Trade Descriptions (Marking) (Platinum) (Amendment) Order 2008 (L.N. 83 of 2008 as amended by the Administration)</u> (LC Paper No. CB(1)1604/07-08(02))</p> <p>(a) Briefing by the Administration</p> <p>(b) The Administration's undertaking to amend the notice in Schedule 3 by adding "(Cap. 362, sub. leg.)" after "Trade Descriptions (Marking) (Platinum) Order" in response to ALA's view</p>	<p>The Administration to note and take follow-up action as per paragraph 3 of the minutes</p>
<p>004235 – 004817</p>	<p>Chairman Administration Mr Vincent FANG</p>	<p><u>Trade Descriptions (Definition of Platinum) (Amendment) Regulation 2008 (L.N. 84 of 2008)</u></p> <p>(a) Briefing by the Administration</p> <p>(b) In response to Mr Vincent FANG's enquiry, the Administration's advice that one of the purposes of the amendments was to add "鉑金" as an alternative to "白金", the Chinese equivalent of "platinum" to prevent retailers</p>	

Time marker	Speaker	Subject(s)	Action required
		from misrepresenting white gold as platinum	
004818 – 005636	Chairman Administration ALA	<p><u>Administration's response to the list of follow-up actions arising from the discussion on 20 May 2008 (LC Paper Nos. CB(1)1604/07-08(03) and CB(1)1636/07-08(03))</u></p> <p>(a) Briefing by the Administration</p> <p><u>Trade Descriptions (Provision of Information on Regulated Electronic Products) Order (L.N. 81 of 2008 as amended by the Administration) (version as at 22 May 2008) (LC Paper No. CB(1)1636/07-08(02))</u></p> <p><i>Proposed section 3(1A)</i></p> <p>(b) Briefing by the Administration on the latest proposed amendment to add the new section 3(1A)</p> <p>(c) The Administration's undertaking to change "carried" to "conducted" in the proposed amendment</p> <p><i>Use of the word "principal" in the Order</i></p> <p>(d) Both "主要" and "首要" were used as the Chinese renditions for "principal" in existing statutory provisions</p>	The Administration to note and take follow-up action as per paragraph 4 of the minutes
005637 – 005730	Chairman Mr Vincent FANG	Dates for the Subcommittee to report to the House Committee and for giving notice of amendments to the subsidiary legislation	