



Ref.: G2009 – 065

27 July 2009

Dr the Hon Pan Pey-chyou

Chairman

Bills Committee on

Occupational Deafness (Compensation) (Amendment) Bill 2009

Legislative Council

8 Jackson Road, Central, Hong Kong

Dear Dr Pan,

Occupational Deafness (Compensation) (Amendment) Bill 2009

Thank you for accepting our request of attending the above Bills Committee Meeting scheduled on 28 July 2009 to express the Federation's concern on the matter.

The idiom "prevention is better than cure" is always valid. Occupational deafness is an illness that can be prevented. It requires shared responsibility of both employers and employees to ensure the adoption of sufficient measures to avoid excessive and unnecessary exposure to a noisy work environment. It is wrong in principle to focus on compensation only without paying similar or greater attention to monitoring and promoting preventive measures to protect employees against hearing loss. If there is consensus that greater use should be made of the Occupational Deafness Compensation Fund, it would be much better if more funds are allocated to projects or initiatives of a preventive nature, e.g. purchase of hearing protection devices.

Since 1990, good employers have been required to pay for the malpractices of others by contributing a percentage levy on top of employees' compensation insurance. The Levy rate has undergone several reviews, each resulting in an increase. While the Federation supports progressive improvement of employee protection, it is equally important that employers' interest is also given due consideration. The Federation thus welcomes the proposal of reducing the overall Employees' Compensation Insurance Levy rate from 6.3% to 5.8%. In light of the large reserve accumulated, i.e. \$511.7 million, further steps can indeed be taken to relieve employers' burden. This may include waiving the levy contribution to the Fund for a designated period of time, e.g. 5 years, subject to review from time to time. This is akin to the well-established principle and practice of allowing contribution holidays when the balance of a defined benefit provident fund exceeds comfortable solvency and adequacy ratios.

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With respect to the amendments proposed in the Bill, the Federation would like to make the following comments:

- (a) The Federation has no objection to the proposed relaxation of the eligibility for compensation from a hearing loss of 40db or above of two ears to one ear and the increase of the maximum reimbursable amount for the expenses incurred in purchasing, repairing and replacing hearing assistive from \$18,000 to \$36,000 as the financial situation of the Fund allows. However, the Federation is seriously concerned about the retrospective effect of the relevant clause which would be likely to put a drastic financial burden on the Fund. During 2007-08, for example, 48 out of 127 applications for compensation were approved and a total amount of \$5.5 million was subsequently paid. Of the 69 rejected applications, 93% were rejected due to the failure of the applicants to meet the eligibility requirements, i.e. the hearing loss test. In addition, an unknown number of cases might not have been brought to the Board due to prior knowledge of the eligibility requirements. The Occupational Deafness Compensation Board will need to pay each year significantly more compensation if those unsuccessful applications and unclaimed cases in the past 10 years meet the new requirements as stipulated in the Bill, i.e. hearing loss of one ear only.
- (b) At present, a person with occupational deafness is entitled to compensation in the form of a lump sum payment. It is proposed in the Bill that such person will be entitled to further compensation if he suffers from additional hearing loss during his continuous engagement in specified noisy occupations for five more years in aggregate. Though there will only be minimal impact on the Fund, such amendment would set an undesirable precedent for recurrent compensation for a single claim.
- (c) It is suggested by various organisations that compensation for occupational deafness should be restructured like the compensation for pneumoconiosis, whereby monthly payments are granted in addition to the lump sum payment. The Federation is of the view that pneumoconiosis and occupational deafness are not comparable and there is no strong justification for similar treatment. Unlike pneumoconiosis, the degree of permanent incapacity caused by hearing loss does not increase over time unless there is continuous exposure to excessive noise. Such continuous exposure is, however, entirely preventable through the use of appropriate equipment. The Federation strongly believes that, from the point of view of occupational health and safety, it is as much a responsibility of the employee to use such equipment as that of the employer to provide them.

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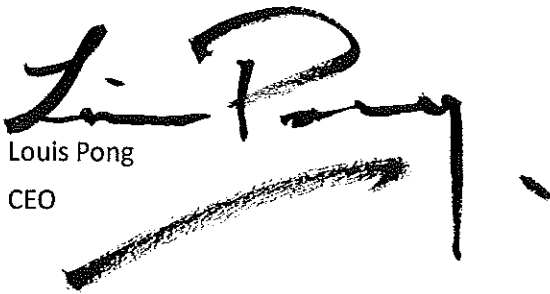
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The Federation wholeheartedly supports the use of the Occupational Deafness Compensation Fund, along with other compensation schemes, to aid persons suffering from permanent incapacity as a result of occupational illnesses or injuries. But the Federation strongly feels that compensation is no substitute for positive and preventive action to raise the community's awareness and commitment towards reinforcing the occupational health and safety of our workforce.

We look forward to the meeting on 28 July 2009.

Yours sincerely,



Louis Pong
CEO