

**Motion debate moved by Hon Starry Lee
on “Establishing a Comprehensive Consumer Protection Regime”
at the Legislative Council (LegCo) meeting
of 6 January 2010**

Progress Report

Objective

At the LegCo meeting of 6 January 2010, the motion moved by Hon Starry Lee on “Establishing a Comprehensive Consumer Protection Regime” as amended by Hon Wong Kwok-hing and Hon Fred Li was endorsed. The wording of motion is at Annex I.

2. The Commerce and Economic Development Bureau (CEDB) is following up with the recommendations set out in the motion debate. This paper serves to update Members of the latest work progress.

Consumer Protection Legislation

3. At the meeting of the LegCo Panel on Economic Development of 24 May, the Government briefed Members on the broad policy directions of measures to tackle unfair trade practices. The relevant paper is at Annex II. In sum, the broad directions are as follows:

(a) the coverage of the Trade Descriptions Ordinance (“TDO”)

(Cap.362) be expanded to cover false representations in respect of services;

- (b) a new offence in the TDO be created to prohibit misleading omissions;
- (c) a new offence in the TDO be created to prohibit aggressive practices;
- (d) specific offences in the TDO be created to control the practices of “bait-and-switch” and “accepting payment without the intention or ability to supply the contracted products”;
- (e) C&ED be designated as the primary enforcement agency for the new offences to be created;
- (f) a compliance-based approach be introduced under which undertakings may be sought from traders to stop engaging in offending acts and court injunction may be sought if traders fail to comply; and
- (g) mandatory cooling-off arrangements under which consumers may cancel the contracts within a specified period be imposed on transactions of time share rights and on contracts made during unsolicited visits to consumers’ homes or places of work.

4. We will carefully consider the invaluable advice provided by

members of the Panel and different sectors of the community on the proposed directions set out in the paper. In this regard, we plan to release a consultation document in July to consult the public on the details of the legislative proposals.

Strengthening Consumer Education and Publicity

5. While it is necessary to impose legislative controls to prohibit unfair trade practices, we consider it equally important to raise consumer awareness through publicity and consumer education. Since late 2009, we have broadcast announcement in public interest on TV and the radio relating to the pre-payment mode of consumption. We have also published articles in newspapers to remind consumers of the need to consider the risks arising from this mode of consumption. Another announcement in public interest will be launched soon on TV and the radio.

6. We will also continue our efforts in exploiting other publicity channels such as newspapers and the web, and work together with the Consumer Council, the Police and other organizations (including major chambers of commerce, schools and the media) to strengthen consumer education.

Chargeable Mobile Communications Services

7. In response to the public concern on chargeable mobile content services delivered through short messaging services or multimedia messaging services, the industry promulgated the “Code for the Provision of Chargeable Mobile Content Services” (“the Code”) on 11 January

2010. The Administration reported this to the LegCo Panel on Information Technology and Broadcasting (“ITB Panel”) on the same day.

8. The Code will enhance consumer protection in several ways. First, the Code requires greater transparency in the sales practices of the Content Services Providers (CSPs) so that users will be clearly informed of all charges, the procedures to subscribe to or terminate a service, etc. Secondly, the Code provides that an independent Administrative Agency (AA) would be set up to assess the compliance of CSPs with the Code on a continuous basis. Thirdly, the mobile operators will provide billing services only to CSPs who have pledged compliance with the Code and are compliant with the Code as so assessed by the AA. Fourthly, mobile operators have a role under the Code to facilitate dispute resolution between CSPs and customers.

9. The AA came into operation on 31 March 2010 for assessing whether CSPs comply with the Code on a continuous basis. The number of relevant complaints received by the Office of the Telecommunications Authority (OFTA) has also fallen in recent months. OFTA will continue to monitor closely the implementation of the Code and assess its effectiveness from time to time. The Administration will report to the ITB Panel after the Code has been implemented for some time.

Person-to-Person (P2P) Telemarketing Calls

10. OFTA has been working with the finance, insurance, call centre and telecommunications sectors in the implementation of a voluntary

code of practice (the CoP). To facilitate individual industry associations and companies to devise their own CoP, OFTA has, after discussion with the trade, published a benchmark voluntary CoP (“the Benchmark CoP”) in February this year outlining the best practices which may help address the concerns of the public.

11. By end-May 2010, two telecommunications operators and one trade association have confirmed implementing voluntary CoPs which are premised on the Benchmark CoP. We believe that more companies and trade associations will adopt their own voluntary CoPs shortly in the future.

The sales practices of Pyramid Selling

12. We have started a review of the Pyramid Selling Prohibition Ordinance (Cap.355) and examined its scope of application, legal definition and penalty levels in the light of the legislative provisions in Australia, the United Kingdom, Ireland and other countries or regions. We will consult the relevant LegCo Panel and the public upon the completion of the review.

Commerce and Economic Development Bureau

Commerce, Industry and Tourism Branch

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