

立法會

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Panel on Economic Development Meeting on 16 November 2009

Updated background brief on review of consumer protection legislation

Purpose

This paper provides background information on the review of consumer protection legislation and summarizes concerns raised by Members on the subject matter.

Background

Need to strengthen the consumer protection regime

2. In recent years, there have been changes in the local consumer market including a fast-growing service sector, increasingly aggressive marketing and sales practices for products and services, as well as significant growth in the number of inbound tourists, especially those from the Mainland, who are not fully aware of their rights and less informed. There is a need to review the adequacy of the existing regulatory regime to ensure that it will continue to afford effective protection to consumers and cater for the wide array of new products and innovative advertisements and marketing.

3. The Financial Secretary announced in his Budget Speech in February 2007 that the Consumer Council (CC) would conduct a comprehensive review of existing measures to protect consumer rights. In early 2007, while the review was being conducted, there were several widely reported retail scams involving Mainland tourists, where deceptive, misleading and unfair trade practices were employed by unscrupulous retailers in conducting their business. In order to protect both local consumers and tourists, the Administration identified some priority legislative changes for early implementation to tackle the more prevalent malpractices. The Trade Descriptions (Amendment) Bill 2007 was introduced into the Legislative Council (LegCo) on 9 January 2008, and was enacted on 18 June 2008 following scrutiny by a bills committee. The Administration also introduced eight items of subsidiary legislation under the Trade Descriptions Ordinance (Cap. 362) (TDO) in early 2008 to enhance protection for consumers in the purchase of jewellery items and popular electronic products. The Amendment

Ordinance and the eight pieces of subsidiary legislation came into operation on 2 March 2009.

The comprehensive review

4. To follow up the initiatives announced by the Financial Secretary in February 2007, a Working Group on Improvement of Consumer Protection Laws was set up under CC, with input from relevant government departments, to identify areas for improvement in consumer protection. CC has reviewed a wide range of issues, including:

- (a) regulation of misleading and deceptive advertisements;
- (b) enhancing protection in consumer goods and service market;
- (c) specific consumer protection measures for individual sectors taking into account their specific nature and characteristics; and
- (d) examining the merits of enacting a comprehensive law on trade practices and the implementation of the proposed legislation.

5. On 25 February 2008, CC published the review report entitled "Fairness in the Marketplace for Consumers and Business" which put forward a package of recommendations including the introduction of a comprehensive Trade Practices Statute in Hong Kong to prohibit unfair trade practices of all types of goods and services. In the Policy Agenda of the 2008-2009 Policy Address issued in October 2008, the Administration indicated that it was reviewing the existing consumer protection legislation in the light of the recommendations by CC and planned to consult the public on the way forward in the first half of 2009.

Previous discussions

6. At the meeting of the former Panel on Economic Services¹ held on 25 June 2007, members expressed the need to tighten the regulation of pre-paid and contractual services, and provide a "cooling-off period" for consumers to safeguard their interests. As the service providers being complained refused to attend the mediation meetings arranged by CC or provide CC with the requested information, members considered that CC should be provided with more power for enhancing consumer protection. Panel members also saw the need to regulate contents of advertisements delivered through both electronic and print media, require return arrangements for products sold at discounted prices and enforce relevant legislation such as the Unconscionable Contracts Ordinance (Cap. 458) more effectively. They also considered that various consumer protection legislation should be incorporated into one single ordinance to help facilitate law enforcement and enhance consumers' understanding of their rights and interests.

¹ The Panel on Economic Services was renamed as the Panel on Economic Development from the 2007-2008 session.

7. At the Council meetings on 9 May 2007 and 4 July 2007, the motions on "Combating unscrupulous shops" and "Strengthening the regulation of unscrupulous business practices in pay television, telecommunications and internet services" were passed respectively.

8. Questions were also raised at Council meetings on the subject of consumer protection. At the Council meetings on 4 February and 13 May 2009 and at the special meeting of the Finance Committee on 23 March 2009, when responding to Members' questions, the Administration advised that CC had recommended, inter alia, to enact a cross-sector statute to prohibit the use of unfair trade practices by traders for all products, services and industries before, during and after transactions. As CC's recommendations involved complex issues and affected many pieces of existing legislation and codes of practices, these would have to be examined in detail. These issues included the definition of inappropriate sales practices, the scope of misleading representations and material omissions, implementation problems, and interface with existing laws and other regulatory regimes.

9. At the meeting of the Panel on Economic Development on 22 June 2009, members expressed grave concern on the proliferation of advertising bluffs and consumer scams in the print media, especially the weekly magazines, which had existed for a long time but was not subject to any regulatory control. They were very dissatisfied about the Government's inaction which had led to the present flourishing of advertising bluffs. While noting that the Administration was exploring the possibility of extending the scope of TDO to cover the supply of services, members urged that the Consumer Legal Action Fund should be deployed more widely to deter unscrupulous trade practices in the interim.

10. Grave concerns about advertising bluffs were again raised during the policy briefing at the Panel meeting on 16 October 2009. Some Panel members pointed out that the situation had worsened as consumer scams affected not only Hong Kong people but also Mainlanders and other visitors. Members requested the Administration to combat unscrupulous sales practices by means of legislation.

Latest development

11. In the 2009-2010 Policy Agenda issued in October 2009, the Administration has indicated that it is preparing legislative proposals to strengthen consumer protection with a view to consulting the public by end 2009 or early 2010, in addition to stepping up publicity and education efforts.

12. The Administration will consult the Panel on proposed amendments to Toys and Children's Products Safety Ordinance, which aim to update the safety standards for toys and children's products to give consumers better protection. It plans to table the proposed amendments at a Council meeting in December 2009.

References

13. A list of the relevant papers is in **the Appendix**.

Council Business Division 1
Legislative Council Secretariat
10 November 2009

Background brief on review of consumer protection legislation

List of relevant papers

Panel/Committee	Date	Paper
Council Meeting	13 October 2004	LegCo question: Service Items Covered by Management Fees (Page 79-80) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1013ti-translate-e.pdf
Council Meeting	20 October 2004	LegCo question: Complaints About Services Provided by Beauty or Slimming Centres (Page 90-93) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm1020ti-translate-e.pdf
Council Meeting	2 February 2005	LegCo question: Unscrupulous Practices of Hotels to Promote Memberships (Page 61-62) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0202ti-translate-e.pdf
Council Meeting	9 March 2005	LegCo question: Substandard Services of Telecommunications Service Providers (Page 99-102) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0309ti-translate-e.pdf
Council Meeting	25 May 2005	LegCo question: Restraining Mis-selling Behaviour of Telecommunications Service Operators (Page 23-32) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0525ti-translate-e.pdf
Council Meeting	15 June 2005	LegCo question: Broadband Internet Access Service (Page 87-89) http://www.legco.gov.hk/yr04-05/english/counmtg/hansard/cm0615ti-translate-e.pdf
Council Meeting	2 November 2005	LegCo question: Sale of Counterfeit Goods (Page 74-76) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1102ti-translate-e.pdf LegCo question: Monitoring of Low-priced Outbound Tours (Page 76-77) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1102ti-translate-e.pdf
Council Meeting	9 November 2005	LegCo question: Regulation of Services Provided by Beauty Salons (Page 60-67) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1109ti-translate-e.pdf

Panel/Committee	Date	Paper
Council Meeting	23 November 2005	LegCo question: Monitoring Sale of Hairy Crabs (Page 28-35) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm1123ti-translate-e.pdf
Council Meeting	18 January 2006	LegCo question: Monitoring of Medical Centres Operating as Conglomerate (Page 84-87) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0118ti-translate-e.pdf
Council Meeting	15 February 2006	LegCo question: Regulation of Slimming Services (Page 92-94) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0215ti-translate-e.pdf
Council Meeting	8 March 2006	LegCo question: Regulating Body-slimming Advertisements (Page 17-26) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0308ti-translate-e.pdf
Council Meeting	10 May 2006	LegCo question: Medical Discount Cards (Page 100-102) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0510ti-translate-e.pdf
Council Meeting	21 June 2006	LegCo question: Regulation of Spa Treatment and Massage Services (Page 92-94) http://www.legco.gov.hk/yr05-06/english/counmtg/hansard/cm0621-translate-e.pdf
Council Meeting	1 November 2006	LegCo question: Safety of Cosmetic Products (Page 57-60) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1101-translate-e.pdf
Council Meeting	8 November 2006	LegCo question: Protection of Consumers' Rights and Interests (Page 26-35) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1108-translate-e.pdf LegCo question: Regulation of Colon Hydrotherapy (Page 64-66) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm1108-translate-e.pdf
--	28 February 2007	The 2007-08 Budget (Pt. 34 and 35) http://www.budget.gov.hk/2007/eng/budget09.htm

Panel/Committee	Date	Paper
Council Meeting	9 May 2007	<p>Motion on "Combating unscrupulous shops" moved by Hon LAU Kong-wah http://www.legco.gov.hk/yr06-07/english/legco_rpt/legco_motion0510-e.pdf</p> <p>Progress Report http://www.legco.gov.hk/yr06-07/english/counmtg/motion/cm0509-m1-prpt-e.pdf</p>
Council Meeting	23 May 2007	<p>LegCo question: Sale of Spurious Proprietary Chinese Medicine (Page 60-62) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0523-translate-e.pdf</p>
Council Meeting	13 June 2007	<p>LegCo question: Complaints About Telecommunications or Subscription Television Services (Page 71-74) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0613-translate-e.pdf</p>
Panel on Economic Services	25 June 2007	<p>Administration's paper on "Review of consumer protection laws" LC Paper No. CB(1)1924/06-07(04) http://www.legco.gov.hk/yr06-07/english/panels/es/papers/es0625cb1-1924-4-e.pdf</p> <p>Minutes of the Meeting LC Paper No. CB(1)2268/06-07 http://www.legco.gov.hk/yr06-07/english/panels/es/minutes/es070625.pdf</p>
Council Meeting	4 July 2007	<p>LegCo question: Owners Stipulating Bundled Lease Terms (Page 98-101) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0704-translate-e.pdf</p> <p>LegCo question: Sale of Uncompleted Units (Page 102-105) http://www.legco.gov.hk/yr06-07/english/counmtg/hansard/cm0704-translate-e.pdf</p> <p>Motion on "Strengthening the regulation of unscrupulous business practices in pay television, telecommunications and internet services" moved by Dr Hon YEUNG Sum http://www.legco.gov.hk/yr06-07/english/legco_rpt/legco_motion07051-e.pdf</p>

Panel/Committee	Date	Paper
		Progress Report http://www.legco.gov.hk/yr06-07/english/counmtg/motion/cm0704-m1-prpt-e.pdf
Council Meeting	17 October 2007	LegCo question: Sale of Drugs (Page 93-98) http://www.legco.gov.hk/yr07-08/english/counmtg/hansard/cm1017-translate-e.pdf
Council Meeting	30 January 2008	LegCo question: Control on Sale of Unregistered Drugs (Page 90-93) http://www.legco.gov.hk/yr07-08/english/counmtg/hansard/cm0130-translate-e.pdf
--	25 February 2007	"Fairness in the Marketplace for Consumers and Business" - Executive Summary http://www2.consumer.org.hk/2008022501/exec_sum_e.pdf
Council Meeting	5 March 2008	LegCo question: New Measures to Safeguard Rights and Interests of Consumers (Page 102-104) http://www.legco.gov.hk/yr07-08/english/counmtg/hansard/cm0305-translate-e.pdf
Panel on Economic Development (Special meeting)	24 October 2008	The 2008-09 Policy Address - "Policy Agenda" (Page 50) http://www.legco.gov.hk/yr08-09/english/panels/0809agenda_e.pdf Minutes of the Meeting (LC Paper No. CB(1)324/08-09) http://www.legco.gov.hk/yr08-09/english/panels/edev/minutes/edev20081024.pdf
Council Meeting	4 February 2009	LegCo question: Regulation of Advertisements (Page 46-54) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0204-translate-e.pdf
Finance Committee (Special Meeting)	23 March 2009	Minutes of the Meeting (Page 26) http://www.legco.gov.hk/yr08-09/english/fc/fc/minutes/sfc_rpt.pdf
Council Meeting	13 May 2009	LegCo question: Monitoring of dishonest trade practices of retailers (Page 63-64) http://www.legco.gov.hk/yr08-09/chinese/counmtg/floor/cm0513-confirm-ec.pdf

Panel/Committee	Date	Paper
Panel on Economic Development	22 June 2009	<p>Administration's paper on "The Consumer Protection Regime in Hong Kong " LC Paper No. CB(1)1939/08-09(07) http://www.legco.gov.hk/yr08-09/english/panels/eDEV/papers/eDEV0622cb1-1939-7-e.pdf</p> <p>Minutes of the Meeting (LC Paper No. CB(1)2487/08-09) http://www.legco.gov.hk/yr08-09/english/panels/eDEV/minutes/eDEV20090622.pdf</p>
Council Meeting	24 June 2009	<p>LegCo question: Protecting consumers who purchase pre-paid services (Page 111-113) http://www.legco.gov.hk/yr08-09/english/counmtg/hansard/cm0624-translate-e.pdf</p>
Panel on Economic Development (Special meeting)	16 October 2009	<p>The 2009-2010 Policy Agenda (Page 59) http://www.policyaddress.gov.hk/09-10/eng/docs/agenda.pdf</p> <p>Administration's paper on "Policy Agenda of the Commerce, Industry and Tourism Branch, Commerce and Economic Development Bureau" LC Paper No. CB(1)18/09-10(01) http://www.legco.gov.hk/yr09-10/english/panels/eDEV/papers/eDEV1016cb1-18-1-e.pdf</p> <p>Minutes of the Meeting (to follow)</p>