

**立法會**  
**Legislative Council**

LC Paper No. CB(3) 954/11-12

Ref : CB(3)/B/CED/1 (11-12)

Tel : 3919 3306

Date : 21 June 2012

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

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**Council meeting of 27 June 2012**

**Trade Descriptions (Unfair Trade Practices)  
(Amendment) Bill 2012**

**Committee stage amendments**

Members were informed vide LC Paper No. CB(3) 939/11-12 issued on 19 June 2012 that the President had given permission for the Secretary for Commerce and Economic Development to move his amendments to the above Bill at the Council meeting of 27 June 2012. Members are invited to note that the President has also given permission for Hon Vincent FANG, subject to the Bill receiving a Second Reading, to move his amendments to the Bill.

2. As directed by the President, the amendments are attached for Members' consideration.

(Desmond LAM)  
for Clerk to the Legislative Council

Encl.

Trade Descriptions (Unfair Trade Practices) (Amendment) Bill 2012

**Committee Stage**

Amendments to be moved by the Honourable Vincent FANG

Clause

Amendment Proposed

19 By deleting the proposed section 26A and substituting—

**“26A. Additional defence (bait advertising)**

Without limiting section 26, in any proceedings for an offence under section 13G the person charged is entitled to be acquitted if—

(a) sufficient evidence is adduced to raise an issue that—

(i) the trader offered to supply, or to procure a third person to supply, products of the kind advertised to the consumer within a reasonable time, in a reasonable quantity and at the advertised price and—

(A) if that offer was accepted by the consumer, the trader so supplied, or procured a third person to so supply, the products; or

(B) if that offer was not accepted by the consumer, the trader would have been able to so supply, or procure a third person to so supply, the products had the offer been accepted at the time it was made; or

(ii) the trader offered to supply immediately, or to procure a third person to supply within a reasonable time, equivalent products to the consumer in a reasonable quantity and at the price at which the advertised products were advertised and—

(A) if that offer was accepted by the consumer, the trader so supplied, or procured a third person to so supply, the equivalent products; or

- (B) if that offer was not accepted by the consumer, the trader would have been able to so supply, or procure a third person to so supply, the equivalent products had the offer been accepted at the time it was made; and
- (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.

19 By deleting the proposed section 26B and substituting—

**“26B. Additional defence (wrongly accepting payment)**

- (1) Without limiting section 26, in any proceedings for an offence under section 13I the person charged is entitled to be acquitted if—
  - (a) sufficient evidence is adduced to raise an issue that—
    - (i) the trader offered to procure a third person to supply the products and—
      - (A) if that offer was accepted by the consumer, the trader procured a third person to supply the products; or
      - (B) if that offer was not accepted by the consumer, the trader would have been able to procure a third person to supply the products had the offer been accepted at the time it was made; or
    - (ii) the trader offered to supply, or to procure a third person to supply, equivalent products—
      - (A) within the period specified by the trader at or before the time at which the payment or other consideration was accepted; or
      - (B) if no period was specified at or before that time, within a reasonable period, and—
        - (C) if that offer was accepted by the consumer, the trader so supplied, or procured a third person to so supply, the equivalent products; or
        - (D) if that offer was not accepted by the

consumer, the trader would have been able to so supply, or procure a third person to so supply, the equivalent products had the offer been accepted at the time it was made; and

- (b) the contrary is not proved by the prosecution beyond reasonable doubt.
- (2) Without limiting section 26, in any proceedings for an offence under section 13I(2)(c), the person charged is entitled to be acquitted if—
- (a) sufficient evidence is adduced to raise an issue that a refund in full of the payment or other consideration for the product was made within a reasonable period after the expiry of the period referred to in section 13I(2)(c)(i) or (ii), as the case may be; and
  - (b) the contrary is not proved by the prosecution beyond reasonable doubt.”.