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6 June 2018

By fax: 2543 9197

Mr. Anthony CHU  
Clerk, Public Accounts Committee  
Legislative Council  
Legislative Council Complex  
1 Legislative Council Road, Central  
Hong Kong

Dear Mr. Chu,

**Public Accounts Committee**

**Consideration of Chapter 2 of the Director of Audit's Report No. 70  
Consumer protection against unfair trade practices, unsafe goods,  
and short weights and measures**

Thank you for your letter dated 21 May 2018 addressed to Ms Gilly Wong, Chief Executive of the Consumer Council with questions from the Public Accounts Committee regarding the captioned Director of Audit's Report.

Please find attached the response from the Consumer Council in English for consideration of the Public Accounts Committee.

Please feel free to contact the undersigned at 2856 8544 should you have any questions on the issue.

Yours sincerely,

Simon CHUI

Deputy Chief Executive  
Consumer Council

Encl.

**The Consumer Council's Replies to  
Letter from the LegCo Secretariat on 21 May 2018 regarding  
Chapter 2 of the Audit Report No. 70  
Consumer protection against unfair trade practices, unsafe goods,  
and short weights and measures**

**Part 2: Enforcement Work Against Unfair Trade Practices**

- 13) According to paragraph 2.14, Audit analysis of 12 413 pieces of unfair trade practice information shared by CC with C&ED via the computer system interface revealed that around 10% of the cases might be under the jurisdiction of the Communications Authority. Will OFCA establish a mechanism/platform for periodic sharing of cases and information with CC? If yes, what is the estimated earliest time of completion? If no, what are the reasons for not doing so?

*The Consumer Council's Reply to Question 13*

Paragraph 2.17 of the Audit Report recommends the Consumer Council ("CC") and the Director-General of the Communications ("DG Com") to review the need for (a) periodic sharing of unfair trade practice information relating to telecommunications and broadcasting services; and (b) computer system enhancements to facilitate case referral and information exchange.

With regard to the Audit Commission ("Audit")'s recommendations, the Office of the Communications Authority ("OFCA") has touched base with the CC and preliminarily agreed to set up a mechanism for periodic sharing of unfair trade practice information relating to telecommunications and broadcasting services, and will discuss further on the implementation details later. For referral of complaints to OFCA by the CC, there is already an established mechanism in place to refer cases in writing. In view of Audit's recommendation, OFCA and the CC will review whether there is any room to improve the existing case referral mechanism. OFCA will meet with the CC in June to discuss the above matters in detail.

#### **Part 4: Other Consumer Protection Measures**

- 14) According to paragraph 4.17, CC has established guidelines setting out that once any of the prescribed complaint features has been observed from a series of complaints against a trader found having undesirable trade practices, the trader will then be put under close observation for a six-month period, and that if one new complaint is lodged against the trader during such period, the naming mechanism will be triggered off. However, it is mentioned in paragraph 4.21 that of the seven traders on the observation list in 2017, only one was named and reprimanded. Despite that new complaints had been lodged against the remaining six traders during the six-month observation periods, the naming mechanism was not triggered off. CC subsequently explained that the six traders under close observation in 2017 were for the purpose of monitoring their progress of improvement instead of instituting naming actions. Please advise on the reasons for not spelling out the monitoring mechanism concerned in the guidelines? Will CC introduce changes to the relevant guidelines? If yes, what are the details and timetable? If no, what are the reasons for that?

#### *The Consumer Council's Reply to Question 14*

As explained by the CC in Paragraph 4.22 of the Audit Report, it was the usual practice of the Complaints and Advice Division (“C&AD”) of the CC to invite traders with substantial problems on matters affecting consumers’ interests (e.g. unfair trade practices, unsatisfactory quality of service or goods and late delivery) to meetings for discussion on how to improve their services and resolve complaints against them. Such traders would then be put under close observation for the purpose of monitoring their progress of improvement, rather than for initiating naming and public reprimand. Since the original purpose of the “Guidelines for Naming and Public Reprimand of Trader Adopting Undesirable Trade Practices” (“the Naming Guidelines”) was to lay down principles and procedures for naming and publicly reprimanding traders who deploy undesirable trade practices, the Naming Guidelines do not set out the procedures for monitoring traders due to other reasons (e.g. unsatisfactory quality of service or goods and late delivery).

The CC agrees with Audit’s opinion that putting the traders being monitored for improvement in quality of service and goods and the traders being monitored pursuant to “the Naming Guidelines” in the same list could cause confusion. As such, following Audit’s recommendation, apart from the

Naming Guidelines, the CC has formulated a new set of guidelines on monitoring traders for improvement in providing goods and services, and put the traders under monitoring for the two different purposes in separate lists. This new set of guidelines was endorsed by the CC's Trade Practices and Complaints Review Committee on 10 April 2018 and became effective on the same date.

- 15) According to paragraph 4.25, in response to Audit's recommendation on naming and public reprimand against unscrupulous traders, CC said that it would "seek to enhance [the Complaints Case Management System ("CCMS")] and [had] started preparing a set of guidelines on monitoring traders for service improvement". As it is stated in paragraph 4.18 that there was no laid-down procedure to identify traders with repeated undesirable trade practices, how will CCMS be enhanced and CC prepare guidelines to establish procedures for identifying such traders, and what criteria will be used for defining a trader as a trader with repeated undesirable trade practices?

*The Consumer Council's Reply to Question 15*

Paragraph 4.18 of the Audit Report states that "there was found to be a lack of laid-down procedure to identify traders with repeated undesirable trade practices". The CC explained that trade malpractices could be identified at different stages during the complaint handling process, which includes case processing, case assignment and review, case registration and complaint reports. In determining whether a trader often adopts undesirable trade practices, the CC would consider all relevant factors, such as the number, frequency and content of complaints against it, etc., instead of reaching a conclusion based on any one single indicator.

If a trader has been determined as repeatedly adopting undesirable trade practices, the C&AD staff would conduct further analysis in light of the factors set out in the "Naming Guidelines" for consideration of initiating naming and public reprimand procedures. As mentioned in Paragraph 4.19 of the Audit Report, the scope of analysis could cover the alleged sales malpractices, trends of complaints, case resolution rate and impact on consumer interests.

At present, the complaint reports generated by the Complaint Case Management System ("CCMS") of the CC could not provide sufficient details (for example whether unfair trade practices were involved in

complaints against traders) to facilitate the C&AD staff in identifying serious cases of undesirable trade practices more easily. Moreover, the lack of data mining capability makes it difficult to extract other useful information such as dispute resolution rates of traders from the CCMS database for analysis. Therefore, pursuant to Audit's recommendation, the CC is planning to enhance the capabilities of the CCMS in respect of analysis and data mining mentioned above so as to strengthen the system's effectiveness in assisting staff identify traders who adopt undesirable trade practices repeatedly.

- 16) According to paragraph 4.39, CC had applied for and obtained from CEDB the necessary funding for taking forward the revamp project of CHOICE magazine. What is the total amount of funding granted? What are the respective amounts of funding to be used in different areas (e.g. marketing, making CHOICE magazine available in digital devices, etc.)? What mechanism has been put in place by the Government to monitor the use of the funding?

*The Consumer Council's Reply to Question 16*

In view of the CC's proposed measures to improve the online version of CHOICE Magazine, the Government approved a time-limited allocation of \$9.318 million for three years (\$2.614 million for 2018-19, \$3.209 million for 2019-20 and \$3.495 million for 2020-21) for the setting-up of an online subscription portal, production of multi-media content, search engine optimization, and preparation for the development of a mobile-friendly version etc.

In addition, three applications were submitted by the CC in 2017 for information technology projects, one of which was the Application Systems for the Project of Sustainable Development of CHOICE Magazine. The three projects were granted a total funding of \$3.593 million, and \$1.5 million of which will be used for the development of an in-house subscription portal for "CHOICE" Magazine and the development of a mobile-friendly interface for the existing "Online Price Watch" website.

The Government will monitor the use of the government funding in accordance with established mechanism, for example by requesting the CC to report progress of project implementation at regular meetings, and examining the relevant project expenditures during the vetting of the annual budget of the CC.