

For discussion
on 23 February 2009

LegCo Panel on Administration of Justice and Legal Services

Recovery Agents

The object of this paper is to brief members of the recent developments on the topic of recovery agents. As reported to the Panel in previous meetings, the Administration is taking a three-pronged approach to address the problems caused by recovery agents. These are public education, law enforcement through investigation and prosecution, and possible legislation. The respective areas of work are updated below.

Public Education

2. In order to increase public awareness of the risks of the activities of recovery agents, we have arranged for the broadcast of Announcements of Public Interest (APIs) on television and radio commencing on 9 July 2008 to coincide with the enforcement actions taken by the Police. A table showing the frequency of broadcast of the APIs is at **Annex A**. The broadcast of the APIs will continue as part of our effort to alert the public on the unlawful practices of recovery agents.

3. The Administration has also taken other steps to warn the public of the risk of engaging recovery agents. Offices of Government departments and the Hospital Authority visited by accident victims have taken additional precautionary measures such as producing and putting up posters to warn against recovery agents, broadcasting of APIs in the waiting area, reminding staff to be vigilant against persons distributing touting leaflets and reporting such persons to the Police. The measures taken by government departments and organization are set out in **Annex B**. These actions have raised the awareness of the public against recovery agents.

Prosecution

4. On 3 July 2008, the Police mounted an operation to combat the illegal activities of recovery agents. A total of 21 persons were arrested and 22 premises were searched in various places in Hong Kong, Kowloon and the New Territories. 11 computers and more than 900 box files of various documents were seized. Of the 21 persons arrested, two were charged with offences including (1) conspiracy to commit maintenance; (2) champerty; (3) theft; (4) perjury; and (5) conspiracy to commit champerty. The trial of the two charged persons will take place at the District Court from 11 to 15 May 2009. We are informed by the Police that enquiries on the other arrested persons are still on-going. Members will appreciate that the Administration is not in a position to divulge details of cases which are under investigation by the Police.

5. A press release was issued by the Department of Justice on 8 July 2008 regarding the laying of charges. A clear message was sent to the public that they should beware of the illegal activities of recovery agents.

Possible Legislation

6. The Administration does not rule out the possibility of introducing legislation for the purpose of protecting the interests of the public against abuse by recovery agents. Champerty and maintenance are common law offences in Hong Kong. The Police may bring prosecution under these common law offences. We will review the need for legislation pending the outcome of prosecution actions. If introduction of legislation is deemed desirable, the AJLS Panel, the two legal professional bodies, as well as other stakeholders will be consulted.

Department of Justice
February 2009

TV-API : Recovery agents (09/07/2008 - 31/01/2009) (DJ4)

	TVB(Jade), ATV(Home), TVB(J2, HD, I News), ATV(News), ATVHD, ATV(His, Her)	TVB(Pearl), ATV(World), ATV(Plus)	Cable(General), TVB(PV(998, C, D, L, M, N), now(News, MATV), Cable Finance Info Channel, Cable News Channel, Cable Hollywood Movie Channels	Cable(Children), TVB(PV(TVBQ)	Total
Prime *	164	89	222	32	507
Fringe	508	289	679	46	1522
			Grand Total		2029

Total Prime for 1 APis: 507

Total Fringe for 1 APis: 1522

* Prime time is from 6 pm until midnight except
for Cable Children & Galaxy (TVBQ), which is 2 pm until 10 pm

Radio-API : Touting Activities of Recovery Agents (09/07/2008 - 31/01/2009) (DJ/1/2007)

	CR, Metro and RTHK (Chinese Channel), Metro (Chinese Channel)	CR, Metro and RTHK (English Channel), Metro (English Channel), RTHK (English Channel)	RTHK (Putonghua Channel)	Total
Prime *	142	96	30	268
Fringe	344	227	32	603
			Grand Total	871

Total Prime for 1 APIs: 268

Total Fringe for 1 APIs: 603

* Prime time is 7am - noon; 7 - 8pm; 11pm - 1am

Annex B

The following are measures taken by government departments and organisations to counter the activities of recovery agents in or near their premises—

Social Welfare Department (Traffic Accident Victims Assistance (TAVA) Section)

2. Since May 2008, the TAVA section has moved to a new premises in Wanchai. According to the regulations of the building management, touting activities are strictly prohibited outside the premises or anywhere within the building. The management of the office building carries out frequent patrols and imposes strict security control to remove any people loitering or distributing leaflets in the building area. The situation is currently under control and no one has been seen loitering or distributing leaflets outside the TAVA office. Hence, the TAVA section is not aware of any advertising leaflet containing references to “no win, no fees”.

3. To guard against the illegal activities of recovery agents, the TAVA section has in place the following measures:

- (i) Report to the management of the office building to take action against any touting activities in the vicinity of its office premises;
- (ii) Issue notice (**Annex C**) to all applicants to remind them to be cautious of the touting activities of recovery agents, and to advise them to seek legal advice via proper channel such as a solicitor and the Legal Aid Department; and
- (iii) Put up poster (**Annex D**) at the reception counter of the TAVA office to educate the public to be aware of the touting activities of recovery agents.

4. The Social Welfare Department will continue to closely monitor the situation and take appropriate action.

Labour Department

5. The Commissioner for Labour has advised its front-line staff on action to be taken in case where any person is found distributing leaflets containing the terms of "no win, no fee" in the vicinity of its offices. Where appropriate, the department will report such cases to the Police for enforcement action.

6. The Labour Department has sought the help of the relevant property management to station security guards, whenever required, in the vicinity of the Employees' Compensation Division (ECD)/Occupational Medicine Division (OMD) offices and hospitals where Employees' Compensation Assessment Boards are convened. The department, in particular, designated special "no-staying zones" at the corridors and lobbies of ECD/OMD offices located at 10/F of Cheung Sha Wan Government Offices for the purpose of prohibiting recovery agents from staying there. Security guards are also deployed in patrolling the no-staying zones and assisting in removing recovery agents.

7. The Labour Department has also strengthened the training of front-line staff on handling enquiries about touting activities. The staff will give proper advice to injured employees on the availability of legal aid and other proper free legal advisory services. If the employees so wish, the staff will refer the employees to apply for legal aid or assist them in registering their claims direct at the District Court.

8. The Labour Department has taken out various publicity measures to draw the attention of injured employees to the possible pitfalls of seeking help from recovery agents:

- A poster on touting activities of recovery agents has been produced and posted conspicuously in the waiting area of its ECD/OMD offices and at the relevant hospitals. Applicants for employees' compensation have been advised to contact solicitors or relevant government departments for assistance;

- Cautionary leaflets are being distributed to injured employees through all its ECD and OMD offices, and the 14 public hospitals where the Employees' Compensation Assessment Boards meet injured employees;
- The television API on "Beware of Touting Activities of Recovery Agents" is now screening in the OMD offices;
- A set of Q&A on the same subject has been included in the new edition of "A Concise Guide to the ECO". The Concise Guide is being disseminated through the Labour Department's homepage, and distributed to injured employees in all its ECD offices and at its seminars; and
- An important note on touting activities has been included in a new booklet called "Points to note for Employees Injured at Work". The booklets are being distributed specially for injured employees through its ECD and OMD offices.

Hospital Authority

9. At the request of the Administration, the Hospital Authority has confirmed that all the hospitals with Medical Assessment Board agree to provide all the necessary assistance which will facilitate enforcement action by the Police against recovery agents. In order to step up preventive measures against the touting activities of recovery agents, the Hospital Authority intends to advise hospital staff that they should report to the Police forthwith upon discovery of any suspected case so that its staff can provide information or evidence obtained, to the Police (if so required) without delay.

10. As far as public education is concerned, all the hospitals have considered the feasibility of broadcasting anti-touting message on the dates of medical assessment with due regard to their respective settings and limitations. Such additional measure has been considered as feasible and is now been adopted by some of its hospitals.

Department of Legal Aid

11. The Department of Legal Aid has been displaying posters at its offices to draw the public's attention to the risks involved in dealing with recovery agents. In addition, it has provided posters to the Public Enquiries Services Centres of the Home Affairs Department for display.

Beware of Touting Activities of Recovery Agents

As from time to time there are recovery agents touting claims recovery business near our office, you are strongly advised to protect your own interest and take note of the following:

- ✧ Don't take lobbying by the recovery agents at face value. Some propaganda such as "no win, no fee", "risk-free guarantee", "no charge" and "huge sum of compensation" may only be used to promote business. There may be unfavourable terms. For example, you may be held liable for huge damages and handling fees if you withdraw from their service half-way through.
- ✧ Don't discuss your traffic accident case with such agents. You should keep your personal particulars confidential to avoid being abused by others.
- ✧ Don't sign any document without careful thought. Otherwise, you may face unanticipated legal consequences and financial liabilities later on.

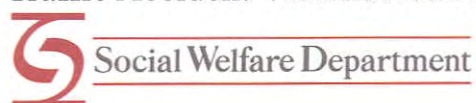
Touting activities are prohibited by this Department and such activities are totally unrelated to this Department. If you feel harassed, please notify our staff, security officers of this building or report to the police.



If you wish to claim common law damages or employees' compensation in respect of a traffic accident through legal proceedings, you should obtain proper legal advice. For details on how to apply for legal services, please visit the website <http://www.info.gov.hk/info/howto/howaid-e.htm>. Besides, you may make use of the Duty Lawyer Service's free legal advice service which operates in the evenings at some District Offices. For enquiries, please call the Central Telephone Enquiry Centre of the Home Affairs Department during office hours on 2835 2500. You may also approach the Legal Aid Department (LAD) to seek legal aid to make a claim.

LAD Headquarters: 24/F, Queensway Government Offices, 66 Queensway, HK
Tel. No.: 2537 7661
Branch Office: 3/F, Mongkok Government Offices, Mongkok KCR station
Tel. No.: 2380 0117

Traffic Accident Victims Assistance Section



慎防推銷索償活動

Annex D

Beware of Touting Activities of Recovery Agents

由於常有索償公司在本辦事處附近進行推銷索償活動，為了保障你本身的利益，請提高警覺，注意下列事項：

不要輕信索償代理游說

某些字句如「不成功，不收費」、「無風險」、「免費」、「鉅額賠償」等可能只是用來推廣業務。接受服務的條件當中可能會包含一些對你不利的條款。

不要和索償代理談論你的交通意外個案

不要透露你的個人資料，以免你的資料遭人濫用。

不要隨便簽署文件

否則可能招致無法估計的法律後果和金錢責任。

As from time to time there are recovery agents touting claims recovery business near our office, you are strongly advised to protect your own interest and take note of the following:

Don't take lobbying by the recovery agents at face value.

Some propaganda such as "no win, no fee", "risk-free guarantee", "no charge" and "huge sum of compensation" may only be used to promote business. There may be unfavourable terms.

Don't discuss your traffic accident case with such agents.

You should keep your personal particulars confidential to avoid being abused by others.

Don't sign any document without careful thought.

Otherwise, you may face unanticipated legal consequences and financial liabilities later on.

本署一向禁止進行推銷或招攬生意活動，亦與這些活動無任何關連。如你覺得受到滋擾，請立即通知本辦事處職員、大廈保安人員或報警求助。

Touting activities are prohibited by this Department and such activities are totally unrelated to this Department. If you feel harrassed, please notify our staff, security officers of this building or report to the police.

你應尋求適當的法律諮詢服務。如欲查詢申請法律諮詢服務的詳情，請致電 2835 2500 民政事務總署中央電話諮詢中心。

You should obtain proper legal advice. For details on how to apply for legal services, please call the Central Telephone Enquiry Centre of the Home Affairs Department at 2835 2500.