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By Fax & By Post  
6 May 2011

Mr LAM Woon-kwong  
Chairperson  
Equal Opportunities Commission  
19/F., CityPlaza Three  
14 Taikoo Wan Road  
Taikoo Shing  
Hong Kong  
(Fax No. 2802 0030)

Dear Mr LAM,

**Subcommittee on the Revised Code of Practice on Employment  
under the Disability Discrimination Ordinance ("Revised Code")**

As instructed by the Chairman of the Subcommittee, please find enclosed an Annex which sets out my comments raised at the Subcommittee's meeting held earlier today for your easy reference.

Yours sincerely,

(Ms Wendy KAN)  
Assistant Legal Adviser

Encl.

c.c. Clerk to the Subcommittee

## Annex

### 1. Discrepancies between the Table of Contents and the Contents of the Revised Code

#### (a) English version

<b>Description in the Table of Contents</b>	<b>Corresponding Text in the Revised Code</b>
Managing Disability Related <u>Work</u> Absence - title of Chapter 7 (page ii)	Managing Disability Related <u>Workplace</u> Absence (page 55)
Seek better communications with employees with <u>disability</u> - second line under Chapter 11 (see page iii)	Seek better communications with employees with <u>disabilities</u> (page 106)
<u>Roles</u> and functions - first line under Chapter 12 (page iv)	<u>Role</u> and functions (page 114)

#### (b) Chinese version

<b>Description in the Table of Contents</b>	<b>Corresponding Text in the Revised Code</b>
現時沒有殘疾的 <u>人士</u> - second line under Chapter 3 (page i)	現時沒有殘疾的 <u>人</u> (page 10)
4.12 – <u>4.23</u> – relevant paragraph numbers of the section entitled "直接歧視" under Chapter 4 (page i)	4.12 – <u>4.22</u> (page 18)
測驗 - section entitled "測驗" under Chapter 6 (page ii)	測試( page 34)

2. Inaccurate/Inappropriate References to Paragraph Numbers of the Revised Code in the Marginal Notes of both the English and Chinese Versions

<b>Paragraph No.</b>	<b>By Reference to the English Version only with Inaccurate/Inappropriate Marginal Note Reference Underlined</b>
4.13	See paragraphs <u>10.6 – 10.10</u> in Chapter 10 for the meaning of "employment" under the Disability Discrimination Ordinance (Cap. 487) (DDO)
4.24	See Chapter <u>6</u> for more discussion on workplace absence issues
5.4.1	See paragraphs <u>5.6 – 5.8</u> below
5.4.2	See paragraphs <u>5.9 – 5.15</u> and <u>5.19 – 5.20</u> below
5.4.3	See paragraphs <u>5.16 – 5.18</u> below
7.32	See paragraphs <u>6.36 – 6.37</u> in Chapter 6 for the definition of "infectious diseases" under the DDO
10.1	See paragraph <u>2.13 – 2.14</u> in Chapter 2

3. References to Section Numbers of the DDO in the Marginal Notes and Case Name/Citation

(a) Incorrect/Inappropriate References to Section Numbers of the DDO in the Marginal Notes in both the English and Chinese Versions

<b>Paragraph No.</b>	<b>By Reference to Marginal Note Reference in the English version only</b>	<b>Corresponding Section Number of DDO</b>
3.3.1	S 2(1)(a)	S 2(1)
3.3.2	S 2(1)(b)	S 2(1)
3.3.3	S 2(1)(c) & (d)	S 2(1)
3.3.4	S 2(1)(e)	S 2(1)
3.3.5	S 2(1)(f)	S 2(1)
3.3.6	S 2(1)(g)	S 2(1)
3.4.1	S 2(1)(ii)	S 2(1)
3.4.2	S 2(1)(iii)	S 2(1)
3.4.3	S 2(1)(iv)	S 2(1)

3.5.1	S 2(1)(a)	S 2(1)
3.5.2	S 2(1)(b)	S 2(1)
3.5.3	S 2(1)(c)	S 2(1)
3.5.4	S 2(1)(d)	S 2(1)
3.5.5	S 2(1)(e)	S 2(1)
5.15	S 4(a) <sup>1</sup>	S 4

(b) Misspelt Case Name/Incomplete Citation: Footnote 1 of the Revised Code

- (i) The name of the case "Teval (HK) Ltd. v Goubatchev" as set out in footnote 1 of the English and Chinese text of the Revised Code should be "Teva (UK) Ltd v. Goubatchev" instead<sup>2</sup>; and
- (ii) In the Chinese version of the Revised Code, the full citation of the case should be quoted<sup>3</sup>.

4. Chinese Title of the Employment Ordinance (Cap. 57) ("EO")

The Chinese title of the EO as referred to in the marginal note of paragraph 7.3 of the Chinese version of the Revised Code should be "僱傭條例" instead of "勞工法例".

5. Discrepancies in the References to Paragraph Numbers between the Marginal Notes of the English and Chinese Versions of the Revised Code

<b>Paragraph No.</b>	<b>Reference in the Chinese Version</b>	<b>Reference in the English Version</b>
8.4	4.16 – 20	4.28
9.15	11.24	11.25
10.7	2.11	2.8
11.10	7.19 – 7.25	no reference to these paragraphs

<sup>1</sup> The reference to the other section of the DDO in the marginal note of paragraph 5.15 of the Revised Code is accurate.

<sup>2</sup> Please see page 2 of both the English and Chinese versions of the Revised Code.

<sup>3</sup> Please see page 2 of the Chinese version of the Revised Code. Please also note the Hong Kong Bar Association's comment on the improper citation format as mentioned in paragraph 7 of its submission to the Commission on 2 July 2010.

6. Comment on *Siu Kai Yuen v Maria College* [2005] 2 HKLRD 775 at Page 28 of the English Version and Page 21 of the Chinese Version of the Revised Code

It is recognised under the law of contract that a term of an agreement will be rendered void if a statute provides so. Accordingly, the wording "and outside the remit of contract law" in the English version and "，亦不納入契約法的範疇內" in the Chinese version may not be entirely correct.