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香港特別行政區政府
商務及經濟發展局
工商及旅遊科



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Ms Debbie Yau
Clerk to Economic Development Panel
Legislative Council Secretariat
Legislative Council Building
8 Jackson Road
Central
Hong Kong

Dear *Debbie*

**Panel on Economic Development
List of follow-up actions
(Paper No. CB(1)1090/10-11/02)**

Proposed Amendments to Pyramid Selling Prohibition Ordinance

I refer to item 5 of the January issue of the list of follow-up actions.

As requested by Members at the meeting held on 25 October 2010, we have set out in the public consultation paper issued in December 2010 the main characteristics of the regulatory regimes on pyramid schemes in selected overseas jurisdictions. I attach at the Annex the relevant paragraphs of the consultation paper for Members' reference.

Yours sincerely,

K.C. Yau
(K.C. Yau)

for Secretary for Commerce and Economic Development

CHAPTER TWO

REVIEW AND OUTCOME

Regulatory Approach

2.2 Under the existing regulatory regime implemented through the Ordinance, express provisions are in place to prohibit undesirable pyramid selling schemes. The great majority of countries and economies, including the United Kingdom, Ireland and Australia², adopt a similar approach. In the Mainland of China and Singapore, a total ban on marketing schemes adopting a multi-level structure is imposed. Only schemes meeting specified requirements and registered with competent authorities are allowed³. The regulatory regime in Taiwan amalgamates the above two approaches: on the one hand, “distorted multi-level selling activities” (meaning arrangements where participants receive economic benefits mainly from introducing others to participate, rather than from the marketing or sale of goods or

² United Kingdom: paragraph 14 of Schedule 1 to the Consumer Protection from Unfair Trading Regulations 2008; Ireland: sections 64 to 66 of the Consumer Protection Act 2007; Australia: sections 65AAA to 65AAE of the Trade Practices Act 1974 and sections 44 to 46 of the Australian Consumer Law (contained in Schedule 1 to the Trade Practices Amendment (Australian Consumer Law) Act (No. 2) 2010).

³ Mainland China: Regulations on Prohibition of Multi-level Marketing Activities and Regulations on Administration of Direct Selling Activities; Singapore: Multi-level Marketing and Pyramid Selling (Prohibition) Act and Multi-Level Marketing and Pyramid Selling (Excluded Schemes and Arrangements) Order 2000.

services or from work rendered at reasonable market prices) are prohibited. At the same time, a series of record-filing requirements concerning the operations of multi-level marketing schemes are laid down⁴.

2.3 We consider that the regulatory approach currently adopted in Hong Kong, i.e. enacting express provisions prohibiting pyramid selling schemes, is in line with international practices and appropriate to our legal and economic environment. Such an approach will avoid over-regulation on legitimate multi-level marketing schemes⁵. We therefore propose to maintain our current approach and consider appropriate legislative amendments on the basis of the Ordinance.

⁴ Article 23 of the Fair Trade Act and the Supervisory Regulations Governing Multi-Level Marketing Activities.

⁵ Legitimate multi-level marketing schemes involve genuine selling activities. The income or benefits that members in such schemes can receive come mainly from the selling activities of their own and/or from the selling activities of any further new members that they may have introduced. On the contrary, participants are incentivized to join pyramid schemes by the benefits derived primarily from the recruitment of further new participants. Multi-level marketing schemes can provide earning opportunities for those who prefer to work outside conventional office hours or settings. They may also help meet the shopping needs of consumers who prefer more personalized services.