

LEGISLATIVE COUNCIL BRIEF

Trade Descriptions Ordinance
(Chapter 362)

Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice

INTRODUCTION

Pursuant to section 1(2) of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Ord. No. 25 of 2012) (the Amendment Ordinance), the Secretary for Commerce and Economic Development has made the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Commencement) Notice (the Commencement Notice) at **Annex** to appoint 19 July 2013 as the day on which the Amendment Ordinance comes into operation.

JUSTIFICATIONS

2. The Amendment Ordinance was passed by the Legislative Council on 17 July 2012. It extends the coverage of the Trade Descriptions Ordinance (Cap. 362) so as to prohibit specified unfair trade practices deployed by traders against consumers, including false trade descriptions of services, misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment. It also introduces a civil compliance-based mechanism to encourage compliance by traders and to stop identified non-compliant practices, under which the law enforcement agencies may, as an alternative to criminal prosecution, accept an undertaking from a trader whom the enforcement agencies believe has engaged in a prohibited unfair trade practice to stop that practice.

3. The Administration has since proceeded with the following preparatory work and considers that the Amendment Ordinance can be commenced in July 2013 -

- (a) Pursuant to the new sections 16BA and 16H, the Customs and Excise Department (C&ED) and the Communications Authority (CA)¹ as the

¹ The new section 16E of the Trade Descriptions Ordinance (Cap. 362) confers upon the CA concurrent

law enforcement agencies have completed the public consultation on the draft enforcement guidelines which state the manner in which they will exercise their enforcement powers and provide guidance on the operation of the new legislative provisions. Taking account of the comments received during the consultation, C&ED and the Office of the Communications Authority (OFCA), the executive arm of CA, are finalizing the draft enforcement guidelines, and the guidelines will be publicized upon the commencement of the Amendment Ordinance;

- (b) Pursuant to the new section 16G, C&ED and OFCA are finalizing a memorandum of understanding to be entered into by the Commissioner of Customs and Excise and CA for the purpose of coordinating the performance of their functions, and will publicize the memorandum upon the commencement of the Amendment Ordinance;
- (c) Pursuant to the new section 16E, the Chief Executive in Council has made the Trade Descriptions (Powers Not Exercisable by Communications Authority) Notice to specify the powers that are not exercisable by CA in its enforcement in respect of commercial practices over which it has concurrent jurisdiction; and
- (d) A comprehensive publicity campaign is being launched to educate both traders and consumers and assist them in understanding the legal requirements and their rights and obligations.

LEGISLATIVE TIMETABLE

4. The Commencement Notice will be published in the Gazette on 24 May 2013 for tabling at the Legislative Council on 29 May 2013.

ENQUIRY

5. Any enquiry on this brief may be addressed to Ms Manda Chan, Principal Assistant Secretary for Commerce and Economic Development (Commerce and Industry) Special Duties, at 2810 2969.

Commerce, Industry and Tourism Branch
Commerce and Economic Development Bureau
22 May 2013

jurisdiction over the commercial practices of licensees under the Telecommunications Ordinance (Cap. 106) and the Broadcasting Ordinance (Cap. 562) that are directly connected with the provision of telecommunications or broadcasting services (as the case may be).

Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012
(Commencement) Notice

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**Trade Descriptions (Unfair Trade Practices)
(Amendment) Ordinance 2012 (Commencement) Notice**

Under section 1(2) of the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (25 of 2012), I appoint 19 July 2013 as the day on which the Ordinance comes into operation.

Secretary for Commerce and
Economic Development

20 May 2013