

香港特別行政區政府  
商務及經濟發展局  
工商及旅遊科



COMMERCE, INDUSTRY AND TOURISM BRANCH  
COMMERCE AND ECONOMIC  
DEVELOPMENT BUREAU  
GOVERNMENT OF THE HONG KONG  
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13 June 2016

Ms. Shirley Chan  
Clerk to Panel on Economic Development  
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**BY EMAIL ONLY**

Dear Ms. Chan,

**Panel on Economic Development**  
**Motion passed at the meeting on 23 May 2016 and Letter from members**

Thank you for your letters dated 24 May and 1 June 2016.

Please find attached our response to the motion passed at the meeting on 23 May. It is also a response to the letters from Dr. Hon. Elizabeth Quat and Hon. Starry Lee, and Hon. Chan Yuen-han and Hon. Tang Ka-piu, forwarded to us via your letter dated 1 June.

Yours sincerely,

A handwritten signature in cursive script that reads 'Tony Chan'.

( Tony Chan )

for Secretary for Commerce and Economic Development

c.c. Commissioner of Customs and Excise (Attn: HTC, AC(II))  
Communications Authority (Attn: AD(M))

For information on  
13 June 2016

**LEGISLATIVE COUNCIL**  
**PANEL ON ECONOMIC DEVELOPMENT**

**Motion passed at the Meeting on 23 May 2016**

**Purpose**

This paper sets out the Government's response to a motion on the imposition of mandatory cooling-off periods, moved by Hon. TANG Ka-piu and passed at the Panel of Economic Development's meeting on 23 May 2016.<sup>1</sup>

**Imposition of a Mandatory Cooling-off Period**

2. It is common for consumers to make pre-payment to traders. We understand that traders usually offer price advantages or discounts to such consumers. As in the case of other consumption transactions, consumers in deciding whether to make pre-payment should carefully consider their own needs as well as the advantages offered by traders and the terms and conditions of the purchase. Consumers with questions should ask for more details from traders or refuse the transaction.

3. Generally speaking, the calls for imposition of mandatory cooling-off periods primarily target unfair trade practices, such as aggressive commercial practices, deployed by certain traders in the context of accepting pre-payment. Since the amended Trade Descriptions Ordinance (Cap. 362) came into effect, the Customs and Excise Department ("C&ED") has prosecuted such unscrupulous traders. Successful cases have been established. In doing so, C&ED has been combating unfair trade practices at source. With the enforcement agencies' continued efforts in enforcing the law, as well as

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<sup>1</sup> The wording of the motion was: "That this Panel urges the Government to introduce legislation on imposition of mandatory cooling-off periods, and accord priority to implementing a statutory cooling-off period for pre-paid services involving a lot of complaints and large amount of payment, such as those provided by fitness centres and the beauty industry, so that consumers may unconditionally receive a refund of the paid fees and cancel the contracts during the cooling-off period with a view to protecting consumers' rights, thereby indirectly dampening the incentive to engage in unfair and high-pressure marketing practices, and ultimately safeguarding practitioners of the relevant trades as well."

measures in publicity and public education, we believe that a deterrent effect will be achieved against unscrupulous traders, and consumer awareness of self-protection will be heightened.

4. The Government appreciates that consumers may have aspirations for a cooling-off period, but as mentioned in our submission to the meeting, certain fundamental issues that should be considered in relation to implementing a mandatory cooling-off period are not simple and are controversial. Examples include whether a mandatory cooling-off period should generally apply to all goods and services; how small-value transactions should be handled; whether consumers can enjoy the goods and services concerned during the cooling-off period; whether consumers having enjoyed part of the goods and services concerned during the cooling-off period should be required to pay for the enjoyed part if they request to cancel the transaction; and how the payment should be computed etc. Some practical issues also cannot be disregarded, including how consumers should exercise the contract cancellation right and how refund should be made etc. Some trades consider that a mandatory cooling-off period would only increase the costs for honest traders but would have little deterrent effect on unscrupulous traders. Following discussion with stakeholders and careful consideration, the Government considers that imposing a mandatory cooling-off period will change the course of transactions and have significant and profound implications on both traders and consumers. It is necessary to consider the matter carefully.

5. The motion passed at the Panel meeting mentions that priority could be accorded to implementing a mandatory cooling-off period in certain industries. However, there is no universal or objective definition for many consumable goods and service industries. This approach could make it easy for unscrupulous traders to circumvent regulation. Careful considerations should be made.

6. The Government will continue to monitor the effects of the new offences under the Ordinance in combating unfair trade practices. We will also keep a close watch on the cooling-off regulations in other jurisdictions, as well as the community's views on the idea of imposing a mandatory cooling-off period. To facilitate further deliberation, we have provided resources to the Consumer Council ("CC") to conduct research on various legal issues concerning cooling-off period, making reference to practices in other

jurisdictions. CC expects relevant work to be completed next year. The Government will carefully consider the research findings.

**Commerce, Industry and Tourism Branch, Commerce and Economic  
Development Bureau  
Customs and Excise Department  
June 2016**