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LEGAL SERVICE DIVISION
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5 June 2017

Ms AU Wan-sze, Wendy
Prin AS for Food & Health (Health)SD1
Food and Health Bureau
19/F, East Wing
Central Government Offices
2 Tim Mei Avenue
Tamar, Hong Kong

Dear Ms AU,

**Re: Smoking (Public Health) (Notices) (Amendment)
Order 2017 ("Amendment Order")**

We refer to the Administration's proposed amendments to the Amendment Order tabled at the meeting of the Subcommittee on the Amendment Order on 2 June 2017.

Proposed new paragraph 2A(2)(a)

In respect of the proposed paragraph 2A(2)(a), it appears that the Chinese text may not accurately reflect the meaning of the English text. Please consider whether it should be "該封包沒有任何的蓋在處於閉合狀況下構成展示健康忠告的表面的一部分" instead of "該封包沒有符合以下說明的蓋：該蓋在處於閉合狀況下，構成展示健康忠告的表面的一部分；" and whether it would be better to amend the English text to "the packet does not have any lid that, when closed, formed part of a surface that bears the health warning" for the sake of clarity.

Proposed new paragraph 2A(2)(b)

In respect of the proposed paragraph 2A(2)(b), please consider whether it should be "the packet bears one specified seal that partially obscures

each of the health warnings appearing on the surface of the packet (該封包之上有一張指明封條，而該封條局部遮蔽在該封包表面之上展示的每個健康忠告)" instead of "the packet bears one specified seal that partially obscures the health warning appearing on a surface of the packet (該封包之上有一張指明封條，而該封條局部遮蔽在該封包的一個表面之上展示的健康忠告)".

Proposed new paragraph 3(4)(d)

Please clarify the purpose of adding "either version A or version B of " after "English version of " in the proposed new paragraph 3(4)(d). Given that the requirement under the proposed new paragraph 3(4)(d) (i.e. the 2 surfaces must bear the Chinese version and English version of the same warning respectively) also applies to specified packet with seal, which must bear a health warning in version C of one of the forms prescribed in Part 2 of the Schedule, is it appropriate to specify in the proposed new paragraph 3(4)(d) that the warning refers to either version A or version B of the same warning?

Proposed new paragraph 3(8A)

In respect of the proposed paragraph 3(8A), it appears that the Chinese text may not clearly reflect the meaning of the English text. It is noted that the drafting formula used in the English text of the proposed paragraph 3(8A) is not uncommon. For instance, section 96(2) of the Banking Ordinance (Cap. 155) provides that "subsection (1) is not contravened by reason only that a statement is made to the effect that an authorized institution is authorized". This is rendered in Chinese as "僅因作出一項意指某認可機構已獲認可的陳述並不違反第(1)款". Please consider adopting this drafting formula for the Chinese rendition of the proposed paragraph 3(8A).

We should be grateful if you could let us have your reply as soon as possible.

Yours sincerely,



(Rachel DAI)
Assistant Legal Adviser

cc. DoJ (Attn: Ms Phyllis POON, SGC (By Fax: 3918 4613))
Clerk to Subcommittee