

**立法會**  
***Legislative Council***

LC Paper No. CB(4)854/18-19

(These minutes have been seen by  
the Administration)

Ref : CB4/PL/EDEV

**Panel on Economic Development**

**Minutes of meeting  
held on Monday, 28 January 2019, at 10:45 am  
in Conference Room 1 of the Legislative Council Complex**

**Members present :** Hon CHUNG Kwok-pan (Chairman)  
Hon WU Chi-wai, MH (Deputy Chairman)  
Hon James TO Kun-sun  
Hon Jeffrey LAM Kin-fung, GBS, JP  
Hon WONG Ting-kwong, GBS, JP  
Hon Starry LEE Wai-king, SBS, JP  
Hon WONG Kwok-kin, SBS, JP  
Hon Paul TSE Wai-chun, JP  
Hon Claudia MO  
Hon Michael TIEN Puk-sun, BBS, JP  
Hon Steven HO Chun-yin, BBS  
Hon Frankie YICK Chi-ming, SBS, JP  
Hon YIU Si-wing, BBS  
Hon Charles Peter MOK, JP  
Hon Alice MAK Mei-kuen, BBS, JP  
Hon Dennis KWOK Wing-hang  
Dr Hon Elizabeth QUAT, BBS, JP  
Ir Dr Hon LO Wai-kwok, SBS, MH, JP  
Hon Alvin YEUNG  
Hon Andrew WAN Siu-kin  
Hon CHU Hoi-dick  
Dr Hon Junius HO Kwan-jiu, JP  
Hon Holden CHOW Ho-ding  
Hon SHIU Ka-fai  
Hon CHAN Chun-ying, JP  
Hon LUK Chung-hung, JP  
Hon Jeremy TAM Man-ho

**Members attending :** Hon CHAN Chi-chuen  
Dr Hon KWOK Ka-ki  
Hon HO Kai-ming

**Members absent :** Hon Kenneth LEUNG  
Hon Jimmy NG Wing-ka, JP

**Public Officers attending :** Agenda item IV  
Mr Edward YAU, GBS, JP  
Secretary for Commerce and Economic Development

Miss Eliza LEE, JP  
Permanent Secretary for Commerce and Economic  
Development (Commerce, Industry and Tourism)

Miss Erica NG, JP  
Deputy Secretary for Commerce and Economic  
Development (Commerce and Industry) 3

Ms Jacko TSANG  
Principal Assistant Secretary for Commerce and  
Economic Development (Commerce and Industry)  
SD

Agenda item V

Ms Angela LEE  
Deputy Secretary for Transport and Housing (Transport) 5

Mr Wallace LAU, JP  
Deputy Secretary for Transport and Housing (Transport) 4

Mr WONG Sai-fat  
Deputy Director of Marine

Miss Winsome AU  
Principal Assistant Secretary for Transport and Housing  
(Transport) 8

Miss Vicky CHEUNG  
Principal Assistant Secretary for Transport and Housing  
(Transport) 11

**Clerk in attendance :** Ms Shirley CHAN  
Chief Council Secretary (4)5

**Staff in attendance :** Ms Shirley TAM  
Senior Council Secretary (4)5

Ms Lauren LI  
Council Secretary (4)5

Ms Zoe TONG  
Legislative Assistant (4)5

Miss Mandy LUI  
Clerical Assistant (4)5

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Action

**I. Confirmation of minutes of meeting**

(LC Paper No. CB(4)403/18-19 — Minutes of policy briefing held on 22 October 2018)

The minutes of policy briefing held on 22 October 2018 were confirmed.

**II. Information papers issued since the last meeting**

(LC Paper No. CB(4)379/18-19(01) — Administration's paper on tables and graphs showing the import and retail prices of major oil products from December 2016 to November 2018

LC Paper No. CB(4)455/18-19(01) — Letter from Hon Christopher CHEUNG Wah-fung dated 22 January 2019 on withdrawal of membership (Chinese version only)

LC Paper No. CB(4)456/18-19(01) — Letter from Hon HO Kai-ming dated 23 January 2019 on withdrawal of membership (Chinese version only)

LC Paper Nos. CB(4)462/18-19(01) — Letter from Hon Jeremy TAM Man-ho dated 7 December 2018 on the use of deep cement mixing method for the construction of the three-runway system (Chinese version only) and the Administration's response)

2. Members noted the above papers issued since the last regular meeting.

Proposed joint-Panel duty visit to the major cities in the Yangtze River Delta Region

3. The Chairman said that a circular was issued on 18 January 2019 to invite members of this Panel, Panel on Commerce and Industry, Panel on Financial Affairs and Panel on Information Technology and Broadcasting to give views on the proposal of conducting a joint-Panel duty visit to the major cities in the Yangtze River Delta Region. Among the 42 members of the four Panels, 25 had replied to the consultation, of whom 23 agreed to conduct the said visit while two had no particular views. In the light of members' replies, a tentative visit programme would be drawn up for the consideration of the four Panels at a future joint meeting.

**III. Items for discussion at the next meeting**

(LC Paper No. CB(4)442/18-19(01) — List of outstanding items for discussion

LC Paper No. CB(4)442/18-19(02) — List of follow-up action(s))

4. Members agreed to discuss the following items at the next regular meeting scheduled for Monday, 25 February 2019 at 10:45 am –

- (a) Hong Kong Tourism Board Work Plan for 2019-2020;
- (b) Update on Hong Kong Disneyland Resort; and
- (c) Replacement of storm-detecting weather radar at Tai Mo Shan and procurement of a high performance computer to enhance high-impact weather forecast.

#### **IV. Proposed framework for implementing a cooling-off period**

(LC Paper No. CB(4)416/18-19(01) — Administration's paper on the public consultation on statutory cooling-off period for beauty and fitness services consumer contracts

LC Paper No. CB(4)442/18-19(03) — Paper on the proposed framework for implementing a cooling-off period prepared by the Legislative Council Secretariat (background brief))

#### Declaration of interest

5. Dr Elizabeth QUAT declared that some of her family members were involved in beauty business in which she had no pecuniary interest. She was also the honorary chairman of some beauty associations.

6. Mr SHIU Ka-fai declared that he was the consultant of some beauty parlours in which he had no pecuniary interest.

#### Presentation by the Administration

7. At the invitation of the Chairman, Secretary for Commerce and Economic Development ("SCED") briefed members on the Administration's proposal on stipulating a statutory cooling-off period for beauty and fitness services consumer contracts. He said that the Administration had put forth the proposal, which was formulated after taking into account members' views as expressed in a relevant motion passed by the Panel as well as recommendations made by the Consumer Council in its report on Cooling-Off Period, for a three-month public consultation. He added that depending on the outcome of the public consultation, the Administration aimed at introducing the relevant bill into the Legislative Council in the 2019-2020 legislative session. Details of the proposal were set out in LC Paper No. CB(4)416/18-19(01).

#### Discussion

*Imposition of a statutory cooling-off period on beauty and fitness services contracts*

8. Mr Jeffrey LAM stressed the importance of maintaining Hong Kong's

business-friendly environment so that the consumer rights and interests could be protected. Given that a vast majority of traders were honest and in compliance with the legal requirement, he cast doubt on the effectiveness for imposing an indiscriminate statutory cooling-off period in Hong Kong. To effectively combat aggressive sales practices, he suggested that the penalty under the Trade Descriptions Ordinance (Cap. 362) ("TDO") could be strengthened. Concerning the resultant impact posed on local traders, he opined that the current proposal would only increase their operating costs but achieve little deterrent effect on unscrupulous traders. In addition, certain consumers might take advantage of the measure by cancelling their contracts within the cooling-off period after using the services.

9. SCED said that since the implementation of the amended TDO in 2013 to criminalize six types of unfair trade practices including aggressive commercial practices ("ACPs"), though the Customs and Excise Department ("C&ED") was able to secure hundreds of conviction cases, it still received 1 124 complaints involving suspected ACPs up until the end of December 2018. Among them, 374 and 489 were related to beauty and fitness services respectively, making up 77% of all ACP complaints. He said that given the seriousness of the matter as well as the widespread concerns and discontent caused to the community, the Administration considered it appropriate to examine the proposal on stipulating a statutory cooling-off period for beauty and fitness services contracts.

10. Mr SHIU Ka-fai did not subscribe to the Administration's explanation. He pointed out that most of the complaints against beauty service traders received by the Consumer Council had been resolved by conciliation and the number of unsettled cases was relatively insignificant, compared with the large numbers of beauty parlours and relevant daily transactions in Hong Kong. Opposing to the proposal, he stressed that the regulatory regime implemented under TDO was sufficient to combat any unfair trade practices across-the- board and related enforcement actions could be strengthened to better protect consumers. Moreover, it was unjustified to allow consumers to cancel contracts without giving any reasons which would encourage them to be less cautious when making purchasing decisions.

11. SCED pointed out that suspected ACP incidents by beauty and fitness traders usually took place in enclosed business premises without third party witnesses, and in some of the cases, the concerned consumers, especially the disadvantaged ones would have difficulties in giving clear statements on what had happened. He said that this had made investigations more difficult, and there were only four successful conviction cases in relation to ACPs deployed

by beauty and fitness services traders since the amended TDO, which required a high threshold for criminal prosecution, took effect in 2013. This called for additional measures on top of the existing legislation to provide consumers with adequate protection from ACPs in these sectors, and to this end different quarters of the community supported the imposition of a mandatory cooling-off period. Given the complaint situation and high monetary contract values involved, and taking into account the community consensus as well as the Panel support, it was appropriate for the Government to consider imposing a cooling-off period requirement on beauty and fitness services contracts.

12. Mr Paul TSE recalled that the Panel had started to discuss the introduction of a cooling-off period since 2010 while the consumer protection regime had been enhancing gradually along with changing business strategies. He considered the proposed cooling-off regime reasonable and practical to handle the problem, taking into consideration the importance to strike a good balance to protect consumers effectively from aggressive sales practices and respect the freedom of contract. He also concurred with the Administration that a proposal to legislate could be resorted to only when there was sound policy rationale and when it represented a proportionate solution to the specific problem identified.

13. Mr Andrew WAN commented that the proposed cooling-off framework could not combat aggressive sales practices deployed by certain traders. In particular, the framework should not exclude online shopping which was subject to a similar cooling-off requirement in other jurisdictions including the Mainland and the European Union. He was worried that such an exclusion might create a loophole for certain traders of beauty/fitness services to sell packages online with a view to escaping from the new requirement. Mr CHAN Chi-chuen shared a similar concern.

14. SCED stressed that it was neither proportionate nor appropriate to apply a statutory cooling-off period across-the-board to all consumer contracts, and it would be more practical to target the specific problem identified and apply the proposed cooling-off period requirement to only those specific contracts which were most susceptible to aggressive sales tactics. He said that this targeted approach would provide the protection where it was most needed without affecting the overall business environment, minimizing the regulatory impact on small and medium enterprises ("SMEs").

15. Permanent Secretary for Commerce and Economic Development Commerce, Industry and Tourism ("PSCED(CIT)") advised members that although online shopping was subject to mandatory cooling-off requirement in

certain countries, there was no such legislation in other jurisdictions where e-commerce was prevalent and popular, such as the United States, Australia and Singapore. She added that given online shopping often involved cross-boundary transactions, there would be immense practical difficulties for consumers to seek redress and enforcement agencies to investigate and enforce the law. In addition, she explained that complaints involving online shopping in Hong Kong were usually related to delayed delivery and product quality, not ACP. In fact, it could hardly be envisaged that a consumer engaged in online shopping would expose himself to ACP, which was the target unfair sales practice that the proposed cooling-off regime sought to address. As such, the Administration considered that there was a lack of justification for stipulating a cooling-off period requirement for online shopping.

16. The Deputy Chairman pointed out that the number of complaints in relation to timeshare contracts was not small and that the Consumer Council had suggested including such contracts in the cooling-off requirement. He asked about the Administration's rationale for not taking Consumer Council's suggestion.

17. Supporting the Administration's proposal for implementing a statutory cooling-off period for beauty and fitness services consumer contracts, Mr Holden CHOW asked if the Administration had any plan to expand the scope of application of the cooling-off period to cover timeshare contracts and travel club memberships.

18. SCED explained that compared with beauty and fitness service contracts, ACP complaints involving timeshare contracts constituted less than 10% of the total number of ACP complaints received by the C&ED. He said that as the proposed statutory cooling-off period would be a new requirement on consumer contracts in Hong Kong, it should be more appropriate to take a progressive approach, to first focus on trades most commonly associated with ACP and involving large amount of pre-payments. A progressive approach would enable the enforcement agency to accumulate enforcement experience. At the same time, the deterrence effect of the introduction of the proposed cooling-off requirement would help suppress the spread of ACP. The Administration would continue to listen to views received during the consultation and, in particular, would consider the adoption of a relatively simple arrangement in the draft bill, so that the scope of application for the cooling-off requirement might be amended more expeditiously when necessary and after thorough consultation in future.

19. Mr Andrew WAN considered that the ACP problem found in timeshare

contracts was no less severe than that of beauty/fitness services. For example, timeshare products usually involved large pre-payments or lengthy financial commitments while the deployment of high pressure marketing tactics was also reported by relevant complainants. Instead of ignoring the problem, he urged the Administration to reconsider covering timeshare contracts in the cooling-off period regime.

20. Miss Alice MAK said that members of the Hong Kong Federation of Trade Unions including those engaged in beauty and fitness sectors were supportive of introducing a cooling-off period so as to boost consumer confidence and help restore a positive image for the trades. She agreed that it was necessary for the Administration to consider extending the coverage of cooling-off period to timeshare contracts and online purchases and asked about the reasons for exempting certain types of beauty and fitness services from the cooling-off requirement.

21. Dr KWOK Ka-ki expressed disagreement for the exemptions provided for certain beauty or fitness traders under the proposal, such as those operating places that only provided nail treatment, massage, or hair loss improvement service or places that provided fitness services but were not equipped with exercise machines. He considered that this arrangement might create loopholes for traders to deploy tactics so as to get exemptions from the cooling-off requirement. He also suggested that a licensing or demerit point system should be imposed on relevant trades so as to enhance consumer protection.

22. SCED explained that the proposed cooling-off arrangement aimed to reduce the incentives for traders to deploy aggressive sales tactics, hence it would be appropriate to exempt services provided by establishments that were not commonly associated with such tactics. Based on the C&ED's statistics, most of the ACP complaints involved beauty parlours that offered a variety of beauty services and fitness centres equipped with exercise machines. The Administration therefore considered it suitable to provide the said exemptions.

23. On behalf of members of the Civic Party, Mr Alvin YEUNG expressed support for the introduction of a cooling-off period for beauty and fitness services consumer contracts. He asked about the application details of the proposal, such as whether a beauty service contract containing some out-of-scope items or a contract covering various sub-contracts entered by different legal entities would be subject to the new requirement.

24. Mr CHAN Chi-chuen was worried that some traders might split service

contracts into several smaller contracts to evade the cooling-off requirement. He asked if the cooling-off requirement proposed by the Administration would cover service contracts entered in between consumers and their personal trainers hired by fitness centres.

25. SCED explained that the Administration's current thinking was that so long as the service contracts were within the scope of application of the proposed cooling-off requirement, they should be subject to the requirement, regardless of whether the contracts involved body corporate(s) or natural person(s). PSCED(CIT) added that according to the Administration's proposal, as long as a contract contained at least one item of service that was within the application scope, the whole contract, if it involved a pre-payment of \$3,000 or above, would be subject to the cooling-off requirement. Deputy Secretary for Commerce and Economic Development (Commerce and Industry)<sup>3</sup> supplemented that the Administration was mindful to various tactics that traders might deploy to evade the cooling-off requirement, and would discuss with the Department of Justice ways to plug possible loopholes when drafting the relevant bill. One possible option was to aggregate the value of all relevant contracts entered into by the same consumer in the same place within a short period of time when determining whether the cooling-off requirement would apply.

26. PSCED(CIT) said that consumers would be reminded to remain vigilant when entering into contracts, and to this end, after the enactment of the relevant Bill on cooling-off, the Administration would collaborate with the Consumer Council in educating consumers about the scope of application of the cooling-off requirement and matters to which they should pay attention and remain alert.

27. Welcoming the Administration's proposal, Dr Elizabeth QUAT called on the Administration to carefully examine how to strike a proper balance between protecting consumers and ensuring the sustainability of the relevant trades in Hong Kong. Pointing out the hardship of the beauty service trade especially SMEs in face of the cooling-off proposal and some other regulatory measures, she urged the Administration to formulate a suitable industry policy to enable a healthy development of the trade.

*Minimum pre-payment amount covered by the measure*

28. Mr Andrew WAN considered \$3,000 too high as the minimum transaction requirement under the cooling-off requirement. He pointed out that many jurisdictions such as the United Kingdom had adopted some \$500 as the

minimum transaction requirement and requested the Administration to reconsider this matter. Mr CHAN Chi-chuen and Dr KWOK Ka-ki shared a similar view.

29. Miss Alice MAK pointed out that the number of complaints could not reflect the full picture of the ACP problems. According to her understanding, as relevant complaint and investigation procedures were rather complicated, many consumers simply did not lodge complaints involving small value transactions. To fully eradicate the ACP problems, she considered that service contracts with lower pre-payment amounts should also be covered by the new requirement.

30. Mr Paul TSE considered that the minimum transaction threshold under the cooling-off requirement should not be too low. Otherwise, it would cause disruption to normal business operation and be unfair to honest business operators.

31. Mr Holden CHOW considered that apart from protecting consumers, it was also important to help the trades to tide over the resultant impact from the new requirement. He relayed the trades' concerns over a low transaction requirement under the cooling-off requirement which would pose a significant hindrance on their operation and sustainability. He called on the Administration to consult the trade thoroughly on the proposal.

32. SCED said that according to C&ED's statistics, over 90% of ACP complaints involved beauty and fitness services contracts that were worth \$3,000 or above. Therefore, the Administration proposed that the cooling-off period requirement applied if a beauty or fitness services contract involved a pre-payment of \$3,000 or above, so as to provide a reasonable basis for discussion during the consultation. Acknowledging members' diverse views on this matter, he said that the Administration would make reference to the views received during the consultation in finalizing the operational arrangements.

#### *Duration of cooling-off and refund periods and refund arrangements*

33. In response to the Deputy Chairman's enquiry about whether the cash flow of traders would be affected under the cooling-off requirement, SCED explained that the Administration was mindful that a longer cooling-off period would have a larger impact on the cash flow of traders. At the same time, the cooling-off period should not be too short, and should be of a sufficient length for consumers to calmly reflect on their decisions and to cancel contracts as

necessary in accordance with their wish. The Administration thus put forth two options for public consultation, namely a period of three working days and a period of seven calendar days.

34. Dr KWOK Ka-ki criticized that both cooling-off durations proposed by the Administration were too short as compared with the normal 10 to 14 days adopted by other jurisdictions according to the Consumer Council's report. He considered the Administration's proposal not meeting public expectation.

35. Mr SHIU Ka-fai opined that a three-day cooling-off period should be sufficient for a consumer to review and change his purchasing decision after suffering from aggressive sales tactics. It was unjustified to set a longer cooling-off period.

36. To strike a proper balance, Mr Andrew WAN suggested that different cooling-off periods could be adopted in accordance with different pre-payment amounts. For example, a pre-payment of \$500 or above could be subject to a seven-day cooling-off period while a 14-day period could apply to pre-payments of \$100,000 or above. This two-tier approach would accord suitable protection for consumers while addressing the traders' concerns on liquidity.

37. SCED explained that there was currently no legislation in Hong Kong mandating traders to provide a cooling-off period to consumers. The Administration was mindful of the implications of the duration of cooling-off period on consumers and traders, hence in determining a suitable length, reference had also been made to the practices of other jurisdictions, which ranged from three to 14 days.

38. Mr CHAN Chun-ying requested the Administration to clarify the actual "refund period" which would only last for seven-working-day or 14-calendar-day under the Administration's proposal. In his opinion, such timeframe could only allow a trader to give refund instruction to the relevant bank for non-cash payment, while the actual duration for a bank to process the refund instruction would last for about two months depending on the situation.

39. PSCED(CIT) explained that the refund period would dovetail with the length of the cooling-off period, i.e. either a seven-working-day refund period for a three-working-day cooling-off period or a 14-calendar-day refund period for a seven-calendar-day cooling-off period. In making a refund, the trader would be required to use the same means as that used by the customer in effecting payment when the contract was concluded, unless the customer had expressly agreed otherwise. While making a cash refund would be relatively straightforward, refund using non-cash means often involved a number of

factors that were outside the traders' control. Therefore, it was proposed that for non-cash means, a refund would be regarded as having been made by traders at the time when traders gave an instruction on the refund to the relevant payment service providers.

*Charges for services consumed*

40. Mr CHAN Chi-chuen raised concern that traders might deploy various tactics to curtail the contract cancellation right of consumers. For example, they might claim that such a right would be waived automatically once the consumers started to use part of the services. He enquired about the means to resolve this matter under the proposed framework.

41. PSCED(CIT) explained that under the proposal, any agreement between a consumer and a trader to waive, restrict or modify the right of the consumer to cancel the contract would have no legal effect. Nevertheless, if consumers had received services prior to contract cancellation, traders might deduct the cost of the services consumed, which should be calculated on a pro-rata basis based on the total contract sum.

42. Mr SHIU Ka-fai pointed out that it was a common marketing strategy for beauty parlours to sell service plans with a high discount covering a batch of services. This strategy could provide a better cash flow for traders while consumers could enjoy services at a lower price. The price of a one-off service would be much higher if purchased separately. However, if the charges for services consumed during the cooling-off period were calculated on a pro-rata basis, consumers might be tempted into purchasing service plans and cancelling their contracts within the cooling-off period after enjoying part of the services at a lower average price.

43. Miss Alice MAK shared a similar concern, and called on the Administration to take measures to eliminate the various loopholes and inconveniences caused by the proposal to the trade before taking it forward.

44. SCED advised that using pro-rata basis to calculate charges for services consumed during the cooling-off period would allow consumers to receive services immediately after concluding contracts whilst at the same time, provide certainty and prevent the scenario where a trader charged a disproportionately large amount for the part of the services consumed to deter consumers from exercising their contract cancellation right during the cooling-off period.

45. Dr Elizabeth QUAT did not subscribe to the explanation, and urged the Administration to take into account the operation of the beauty service sector in drawing up the proposal. She stressed that the proposed arrangement was unfair to beauty service traders who would incur higher cost for providing a single unit of service to consumers. In addition, such arrangement might be manipulated by certain consumers who wanted to enjoy services at a lower price but had no intention to purchase service plans.

*Ancillary contracts and administrative fee*

46. Mr CHAN Chun-ying noted that under the cooling-off framework, an ancillary contract entered into between the consumer and the trader or a third party arranged through the trader for the provision of goods or services that were related to the main contract would be automatically cancelled upon cancellation of the main contract. He asked about the detailed implementation of this aspect especially for cases involving payments settled by credit card installment payment plan ("IPP"), which would be ancillary contracts.

47. PSCED(CIT) replied that under the Administration's proposal, any ancillary contract, including IPP contract, should be cancelled automatically when the main contract was cancelled within the cooling-off period. Operationally, a trader should cancel, or inform relevant third party to cancel, all related contracts upon being informed by a consumer of his/her decision to cancel the main contract.

48. The Deputy Chairman noted that a trader would be allowed to deduct a fee to cover the administrative cost incurred for cancelling a contract if the payment was made by non-cash means. He asked for further information in this regard especially the administrative fee levels.

49. SCED replied that traders generally needed to pay a fee to the payment service providers when using non-cash methods to receive payment, and such fee might not be refunded to traders in case the transaction was cancelled. In this connection, the Administration considered it reasonable and fair to allow traders to deduct a certain percentage from the refund amount to cover the trader's administrative cost. PSCED(CIT) added that if the consumer made a one-off payment using non-cash means, the level of administrative fee should be up to 3% of the transaction amount, and for IPP by non-cash means, should be up to 5%. For payments that were settled by cash, traders would not be allowed to deduct any administrative fee.

50. Mr SHIU Ka-fai considered the said levels of administrative fee to be borne by consumers were insufficient to offset the related expenses incurred by traders because the current bank charges imposed on IPP transactions, for example, were as high as 10% of the transaction amount. Hence traders would suffer from a loss on every contract cancellation involving IPP transaction under the proposed arrangement.

51. Mr WONG Ting-kwong stressed the importance of striking a balance between protecting consumers' interests as well as traders' interests under the proposal. In particular, proper assistance should be given to relevant traders to tackle various implementation problems. On the additional costs arising from the use of non-cash means in the pre-payments while the service contracts were cancelled, he suggested that traders might consider deferring the execution of credit card transactions until the lapse of the cooling-off period.

52. SCED said that the level of administrative fee to be allowed and other operational arrangements were pertinent issues on which the Administration would welcome views and comments from the public and traders during the public consultation.

#### *Redress mechanism*

53. Mr YIU Si-wing expressed support for introducing the cooling-off period on beauty and fitness services contracts given the large number of complaints involving those trades. Concerning the protection for consumers under the proposal, he urged the Administration to set out a detailed redress mechanism and specify a responsible party so as to facilitate the public to take action when necessary. He also requested the Administration to spell out in the proposal the consequences if a trader had committed unscrupulous acts repeatedly.

54. PSCED(CIT) pointed out that the TDO prohibited various unfair trade practices, and the current proposal sought to provide additional protection for consumers against ACPs by enabling them to unilaterally cancel certain contracts within the cooling-off period without having to provide a reason. Under the Administration's proposal, it was suggested that a consumer might take civil action to recover loss arising from a trader's failure to comply with the refund requirement, or attempt dispute resolution through the Consumer Council, or apply for refund through the credit card chargeback protection mechanism. C&ED would also be empowered to conduct investigation and issue enforcement notice to direct non-compliant traders to remedy the situation. Non-compliance with the enforcement notice issued by C&ED would be a

criminal offence liable to a fine on conviction. The Administration would work with the Department of Justice to examine the appropriate level of fine having regard to the penalties for similar offences.

55. Mr Holden CHOW considered the proposed redress mechanism appropriate where the interests of both traders and consumers were addressed. He also called on the Administration to review the manpower resources of C&ED to ensure an effective implementation of TDO.

56. SCED said that the introduction of a statutory cooling-off period would provide an expeditious way for consumers to seek redress, hence may have the effect of reducing the number of ACP cases that may require criminal investigation and prosecution under TDO. In any event, the Administration would review the manpower need of C&ED for enforcing TDO as necessary.

#### Invitation of views

57. Members agreed that a meeting should be held to receive public views on the subject matter.

*(Post-meeting note: A special meeting was held on 1 March 2019 to receive public views on the Administration's proposal.)*

### **V. Proposed injection into the Maritime and Aviation Training Fund**

(LC Paper No. CB(4)442/18-19(04) — Administration's paper on the proposed injection into the Maritime and Aviation Training Fund

LC Paper No. CB(4)442/18-19(05) — Paper on the proposed injection into the Maritime and Aviation Training Fund prepared by the Legislative Council Secretariat (background brief))

#### Declaration of interest

58. Mr Jeremy TAM declared that he was an employee of an airline which might be a beneficiary of the Maritime and Aviation Training Fund ("MATF").

Presentation by the Administration

59. At the invitation of the Chairman, Deputy Secretary for Transport and Housing (Transport) 5 ("DSTH5") briefed members on the proposal to inject \$200 million into MATF to sustain and enhance the implementation of the Fund. Details of the briefing were set out in LC Paper No. CB(4)442/18-19(04).

Discussion*Schemes under MATF*

60. Mr Jeremy TAM noted that of the 14 schemes under MATF, only two, namely the Partial Tuition Refund Scheme for the Specialised Aircraft Maintenance Programme and the Hong Kong Aviation Scholarship Scheme, were specific for the aviation sector. He considered the number of such schemes, as well as the total funding spent on and the number of beneficiaries of them, was much smaller than those for the maritime sector. In this connection, he sought explanation from the Administration of such a situation.

61. DSTH5 explained that at present, there were 14 funding schemes under MATF of which 10 were maritime-related, two were aviation-related and the remaining two were applicable to both the maritime and aviation sectors. In terms of the number of beneficiaries of the schemes under MATF, around 60% were from the maritime sector and 40% from the aviation side. She advised that the proposed funding injection would enable the Administration to explore and implement new MATF schemes. Deputy Secretary for Transport and Housing (Transport) 4 ("DSTH4") supplemented that the number of beneficiaries of the two schemes which were applicable to both sectors had included beneficiaries from the maritime and aviation industries. In respect of the two schemes which were applicable to the aviation sector only, the number of beneficiaries was relatively small as the two schemes were applicable to specific education programmes, thus only those having attained the required qualifications were eligible for those schemes.

62. Mr Jeremy TAM enquired about the time required to process applications for fee refunds under the Professional Training and Examination Refund Scheme ("ProTERS"). Mr TAM anticipated that the number of applications would increase after funds were injected into MATF. He thus further enquired if there would be adequate manpower to process the applications if there was an increase in the number of such applications. Principal Assistant Secretary for Transport and Housing (Transport) 11 advised that at least one month would be required to process an application if the

applicant had submitted all the necessary documents. The Administration would suitably deploy manpower to process the applications should there be an increase in the number of applications in future.

63. Mr LUK Chung-hung opined that there was succession problem in the maritime industry, in particular in the seafaring sector on ocean-going vessels ("OGVs"). He hoped the injection of fund into MATF would help encourage more talents to join the two industries. He noted that under ProTERS, each individual might apply for fee reimbursement for courses and examinations taken subject to a cap of \$18,000 per applicant. He enquired if there was any room for upward adjustment to the level of subsidy, and suggested that the cap should be raised to at least \$30,000. Mr LUK also noted that MATF would cover up to 75% of the intern's monthly honorarium or \$6,000, whichever was lower, for an internship period of up to three months under the Maritime and Aviation Internship Scheme ("MAIS"), and suggested that the maximum subsidy level should be raised as the amount had not been adjusted upward since its launch in 2014. He urged the Administration to consider adjusting upward the subsidy levels of the two schemes, given the small number of beneficiaries under the two schemes.

64. DSTH5 advised that to encourage more young people to join and pursue the seafaring career, a new arrangement had recently been launched under the Sea-going Training Incentive Scheme ("SGTIS") in early 2019. Under the new arrangement, a special monthly financial subsidy was introduced to cadets who were preparing for professional examinations upon their return from the 18-month sea-going training in order to strengthen support for OGVs deck cadet and engineering cadet beneficiaries under SGTIS. The special subsidy covered two parts, including a monthly subsidy of \$3,000 during the period while the applicants were preparing for the professional examinations ashore after their completion of cadetship for up to six months, and a monthly subsidy of \$6,000 during the period when they returned to OGVs after having acquired the required professional qualification but were yet to be promoted to officer rank for a maximum of six months. DSTH5 further advised that upward adjustment of the subsidy level under SGTIS and MAIS would be subject to the consideration of the Manpower Development Committee of the Hong Kong Maritime and Port Board and the Tripartite Taskforce on Manpower Training (Aviation).

65. Mr LUK Chung-hung considered that transportation cost for travelling to work, in particular for people who worked at the Hong Kong International Airport ("HKIA"), was very high. In this regard, he asked if the Administration would consider providing relevant subsidies under MATF to grass-roots employees and new recruits of the maritime and aviation industries

in order to relieve their financial burden and encourage them to join the two industries. DSTH5 replied that MATF mainly provided funding support for training incentives for the two industries.

*Manpower of the maritime and aviation industries*

66. Mr HO Kai-ming enquired if the schemes under MATF were provided having regard to the manpower needs of the two industries. He also sought information on the type(s) of job that had the largest number of vacancies on the Airport Island. DSTH4 advised that according to the results of the 2017 HKIA Workforce Survey ("the 2017 Survey") conducted by the Airport Authority Hong Kong, about 73 000 people were working at HKIA. According to the survey, 59% of the employees of the responding companies were skilled employees, while 18% of them were engaged in manual/ low skilled positions. Survey results also showed that majority of the vacancies in the responding companies skewed towards skilled and manual/ low skilled jobs, which respectively took up 46% and 22% of the vacancies concerned.

67. Mr HO Kai-ming followed up by enquiring about the definition of "skilled positions" in the 2017 Survey. He also queried if the training provided by schemes under MATF could suitably meet the manpower demand on the Airport Island as reflected in the 2017 Survey, and opined that schemes under MATF were of little effectiveness in addressing the manpower shortage problem at HKIA. DSTH4 replied that the Hong Kong International Aviation Academy had been providing a variety of aviation-related introductory courses which were tailored for the industry newcomers or technical staff to enhance their knowledge about the aviation industry and operation skills. Furthermore, the two schemes under MATF which were applicable to both the maritime and aviation sectors provided exposure opportunity for the young people who were interested in joining the aviation industry and encouraged continuous training for in-service practitioners along their career path.

68. The Chairman sought information on the measures to attract new blood to join the maritime and aviation industries. In response, DSTH5 advised that as members of the general public and young people might know little about the job nature and career prospects of the maritime sector, part of the MATF funds was set aside to support industry associations to organize promotional and outreaching programmes, for example organizing career talks in secondary schools. The Transport and Housing Bureau also participated in the annual Education & Career Expo in collaboration with the Marine Department to promote the maritime industry to youngsters. Furthermore, scholarships provided by various local tertiary institutions also provided incentives for young

people to study and join the maritime and aviation sectors.

69. Mr SHIU Ka-fai expressed support for the proposal of injecting \$200 million into MATF as the Fund would help youngsters in obtaining the relevant professional qualifications and training in the maritime and aviation industries. He sought information on the number of students who were pursuing studies in respect of the maritime and aviation industries in Hong Kong, and enquired about the proportion of overseas students joining such programmes. Mr SHIU also suggested the Administration should consider attracting overseas talents through the schemes under MATF in order to solve the problem of manpower shortage in the sectors concerned.

70. DSTH5 advised that the Maritime Services Training Institute of the Vocational Training Council currently offered higher diploma programme for young people in Hong Kong to pursue maritime studies, and that around 60 students were admitted to the programme every year. The International Shipping and Transport Logistics ("ISTL") Undergraduate Programme offered by the Hong Kong Polytechnic University also provided training to students who were interested in pursuing a career in the maritime sector. Around 100 students were admitted to this Undergraduate Programme every year. DSTH4 advised that currently four schemes under MATF were relevant to the aviation industry. The total number of beneficiaries of the four schemes were around 1 400, 1 700 and 1 500 in 2016-2017, 2017-2018 and the first 11 months of 2018-2019 respectively.

71. Mr SHIU Ka-fai followed up by enquiring about the reasons for the discrepancies in the number of students enrolling in maritime-related and aviation-related programmes. DSTH5 explained that the figures she gave were related to higher diploma and undergraduate study programmes specific for the maritime sector. She pointed out that students studying programmes other than the ones specific for the maritime sector could also join the sector after completion of their studies. For example, students studying mechanical engineering could engage in ship repair services after graduation. DSTH5 added that the Hong Kong Nautical and Maritime Scholarship Scheme under MATF was rolled out in September 2017 to encourage students of the ISTL Undergraduate Programme to enroll in nautical courses to pursue a seafaring career. There were also schemes under MATF which sponsored shipping companies to provide summer internship places for students who were studying in other University Grants Committee-funded institutions.

(At 12:37 pm, the Chairman directed that the meeting be extended for 15 minutes.)

*Development of high value-added maritime services*

72. Mr Holden CHOW welcomed the proposed injection into MATF since it would mean the Administration's strengthened support for the development of high value-added maritime services. He noted that the International Union of Marine Insurance ("IUMI") had set up its first Asian Hub in Hong Kong earlier which in his opinion would be beneficial for the development of the marine insurance industry in Hong Kong. He asked if the Administration had any plans to attract similar marine insurance organizations to base in Hong Kong for better fostering the growth of the industry. Mr CHOW also suggested that the Administration should consider deploying resources under MATF for subsidizing trainings in marine insurance to be conducted in London, as the city was a major international marine insurance centre.

73. DSTH5 advised that a 45-hour training course for marine insurance executives accredited by IUMI was introduced jointly by the Hong Kong Federation of Insurers and HKU School of Professional and Continuing Education last year. The course was also first of its type accredited by IUMI in Asia. As regards overseas training in marine insurance provided under MATF schemes, DSTH5 advised that the Overseas Exchange Sponsorship Scheme under MATF provided financial support to students of tertiary institutions in Hong Kong to attend credit-bearing maritime-related overseas exchange courses and learn more about the development of the maritime industry. With the injection of funding into MATF, the Administration could consider introducing new initiatives or enhancing existing schemes in this regard.

74. Mr Holden CHOW urged the Administration to consider turning the Hong Kong Maritime and Port Board ("HKMPB") into a statutory body for strengthening its efforts in promoting the development of high value-added maritime services in Hong Kong. DSTH5 replied that the Administration was open to the future development of HKMPB's structure, which would be reviewed in due course taking into account HKMPB's mode of operation.

Motion

75. Mr LUK Chung-hung moved the following motion –

"海運和航空業實習計劃下的航空和海運業實習生的可獲發還款額的每月酬金上限為75%或6,000元；另外，航海訓練獎勵計劃下為遠洋船舶的甲板實習生的獎勵津貼為每月6,000元。政府當局就兩者的每月酬金及獎勵津貼金額應予調升至起碼8,000元，相關的每月酬金發還比例亦應相應調整。海運及空

運人才培訓基金亦應進一步加強推廣措施，宣傳航空和海運業。"

(Translation)

"The reimbursement amount for the aviation and maritime interns under MAIS is capped at 75% of the monthly honorarium or \$6,000; separately, SGTIS offers a monthly incentive subsidy of \$6,000 to deck cadets on OGVs. The Administration should raise the levels of the monthly honorarium and incentive subsidy under MAIS and SGTIS to at least \$8,000, and the relevant reimbursement ratio for the monthly honorarium should also be adjusted correspondingly. The promotion initiatives under MATF should also be further strengthened to publicise the aviation and maritime industries."

76. The Chairman ruled that the motion was directly related to the agenda item and members agreed that the motion should be dealt with at the meeting. As directed by the Chairman, the voting bell was rung for five minutes.

77. The Chairman put the motion to vote. All members took part in the voting voted for the motion. The Chairman declared that the motion was carried.

(*Post-meeting note*: The Administration's response to the motion was issued to members vide LC Paper No. CB(4)636/18-19(01) on 13 March 2019.)

### Conclusion

78. The Chairman concluded that the Panel was generally supportive of the proposal to inject funds into MATF under the agenda item.

### **VI. Any other business**

79. There being no other business, the meeting ended at 12:54 pm.