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2010/09/22 01:39

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Subject: Consultation to enhance protection for consumers against unfair trade practices

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Date : Sep 22, 2010

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Public Consultation Paper on Legislation to Enhance Protection for Consumers Against Unfair Trade Practices

Protection too narrow, consultation too wide

I considered the protection resultant from proposed amendments to TDO would still be too narrow as malpractice of goods and service providers were ever changing. In contrast the consultation topic was wide.

Cooling-off periods

I suggested cooling-off periods not only applied to unsolicited visits to consumers' domicile but also unsolicited telephone calls. It was because consumers were not prepared to receive the so-called cold calls which could come in at any time. Moreover, descriptions of goods or services were comparatively brief and short on phone. But an instant buying decision made by a consumer might be related to service that he would use for as long as couple of years. Unfortunately very possibly he could not know how to respond to unfair trading conditions laid by his counterpart on phone. Below was my own case.

My own case

Recently Consumer Council revealed that among 6087 cases of complaints from consumers on telecommunication companies, 644 cases were disputes related to contract and change of service. In one case contract was extended without consent with consumer. When the consumer wanted to change service provider, she was punished HK\$500. As the same in turn of this year when I phoned in and succeeded to get my consent to use their broadband service, the sales person specifically called again to add that I would be fined HK\$500 if I changed my mind before service commenced. When I returned call to tell them that I did not accept this extra condition, they said I could not refuse any longer because I had not refused in the preceding call just minutes ago. Hence, **1 week cooling-off period set by Telecommunication Authority was neglected and thus was ineffective.**

I was told this same clause when they promoted home phone service to me half a month ago. This time I refused immediately and thence contract was failed to make. Since monthly fee was HK\$35, HK\$500 was equivalent to 14.3 months revenue to . I considered this was true unfair trading because that company granted 14.3 months revenue to themselves without having to provide service. But **the consultation paper did not include this kind of unfair trading.**

Since almost every household used home phone service and all subscribers were told same unfair trading condition, the effect was extensive. Aside 644 cases reported were 2.4 millions other consumers who chose remain silent. They included policemen who were impressed as brave in front of public and lawyers who must understand unfair contract conditions well. My understanding to unfair trading practice was strengthened. When I requested same punishment clause on the service provider I was rejected. I demanded . to compensate HK\$500 to me if they failed to provide service from commencement date. But this replication of themselves adopted by me was rejected by them. When I could not treat

them like they treat me, **unfairness was constituted.**

Contract making medium

As mentioned above some companies like _____ promoted its services to the public by phone extensively. That company hired tremendous number of low-paid telemarketers whose earnings mainly relied on successful transactions and resultant commissions. All transactions were made paperless and were recorded by the company laterally. In contrast consumers were never prepared of those sudden calls. They did not have solid record in hands and thus were difficult to raise litigation if required. Therefore I suggested the government should stipulate all transactions must be validated with subsequent signed papers.

Service cancellation

In my experience terminating service and relationship with service provider upon expiry was difficult. Service cancellation form was not available at website for download nor telephone hotline. Customer service officer even had failed to fulfill promise to send a form. On the contrary they require customer to submit particular cancellation form within specific period i.e. 30days / 60 days etc prior to expiry of current contractual term. Therefore the government should prohibit this kind conduct.

Unequal weight

Most consumers chose remain silent even though they might have felt humiliated with unfair trade practice. It was because they consider such big company as a mountain on top on them was impossible to resist and in fact they were inept in handling dilemma situation. Whilst there were few service providers to choose, telemarketers on the phone were not capable to alter any condition. Therefore government should educate about consumer right. i.e. teenagers and kids were told to say 'no' to drug traffickers and sex abusers respectively. Likewise consumers should dare to say no to unfairness as well.

Beauty salon

Among various industries I thought beauty salon was most problematic. They collected prepayment, misrepresented skin care effectiveness and exercised medical treatment without any control. Although prepayment could assist a company cash flow, if the flow was not continuous it would eventually dry up. Therefore I suggested the government should restrict repayment up to a certain period. i.e. half a year at most. Furthermore, in lack of professional proof, government must not allow beauty salon to make unfounded descriptions of skin care product. Needless to say Health Department must control medical treatment by beauty salon.

Yours truly,



Kiwi Chiu Trade practice.doc

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