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To cpr@cedb.gov.hk

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Subject Comments - Public Consultation on Legislation to Enhance
Protection for Consumers Against Unfair Trade Practices
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Dear sir,

The consultation paper was prepared with great efforts and covers most concerns. Thank you for your efforts for the Hong Kong citizens. I only have some comments on the seemingly overlapping area which was not addressed in Chapter 2 of the current version of the paper. It seems to fall between your paragraphs "Misleading Omissions," "Bait-and-Switch" and "Accepting Payment without Intention or Ability to Supply." The exact paragraph of where it should reside is for your judgment. I only named the issue for the ease of referencing.

Let the illustration begin with a real life case of the
. For some reasons that a consumer may not comprehend:

has the privilege over its competitors to conduct motorcycle test of the Traffic Department, HKSAR government. Only those who enroll in the examination can register to seat for the driver's examination in Yuen Long! It is attractive to residents around the north-west region; if they do not enroll in the , their traveling cost is at least one and a half hour more. This issue alone is not the core problem; though it is unfair some business somehow has some location advantages, granted from the HKSAR. In combinations with other practices, it arouses indignations.

Old motorcycles need constant mechanical maintenance. In the instance, , only a few bikes are mechanically inferior. For bike number 331 is known to have transmission problem, bike number 332 is known to have throttle problem on its weak recoil. Students reported these mechanical problems to the times and again, yet the company denied the problems and ignored the reported. Most students know the mechanically inferior motorcycles.

The core problem lies in its examination arrangement. For usual driving practices, its motorcycles are almost randomly assigned to its students at a rental fee of about HKD200 an hour. But when it is for examination, mechanically inferior motorcycles will be assigned to candidates. The problems are not mechanical failure, so a candidate cannot complain nor ask for

another motorcycle in the examination. Nevertheless, the rental fee for one of these inferior motorcycles is around HKD280 each examination seating; more expensive than the fee for usual driving practices!

Well, there is one way out for the candidate. There is always a normal-functioning motorcycle standing by for the examination; and it parks just next to the examination start. The candidate sees it and can request a "marked" motorcycle. The additional fee for such "marked" motorcycle is around HKD500. It is very tempting to most candidates, without it the candidate finds it less probable to pass the examination. Under undue pressure and as a result, consumer's consumption behaviour may be affected. And, the company actually accepts payment without an intention to supply expected service quality to the candidate.

Their practices are rude. Businesses in service industry should maintain consistence of service quality, especially for critical events or the consumer-intended purpose of purchase. Likewise would be the service provided by the cable-TV for the football matches, the domestic internet service on holidays, bank's online-brokage on trading hours, etc. If service quality is not guarantee at the most desired moment, it fails the purpose of the consumption. I would call this an issue of "Quality switch."

And to continue the illustration, there is some misrepresentation in the

advertisement. The examination for motorcycle is two-fold: one for the license of the learner's class then another for the probationary class. In the promotion package of the , there are many sessions for the students own practices - the self-practice session. That means the students can drive without any instructor's supervision. The number of such self-practice sessions depends on the plan of the promotion package, and of course the price. But these self-practice session in the package cannot be consumed before the license for the learner's class. If a student wants to practice for the first examination, he (or she) has to make additional purchase of the identical self-practice session, again at rental fee of about HKD200 an hour, even when he has many self-practice sessions unused in his package. It is almost "Misleading Omissions" as defined in the paper. The interests of consumers may be hampered if they cannot get hold of critical pieces of information, either because of outright omissions by businesses or unclear presentation which has the effect of misleading consumers. But when terms are well-accepted, everyone expects the agreement ties in according to such a mutual understanding. For no excuse should the company redefine the understanding of the term. And no company should use a name of the product to mislead its consumers. I would call this an issue of "Definition Twist."

In combination to the location advantage, "Quality switch" and "Definition Twist" are definitely powerful, since the residents do not have other feasible options, or only a much more costly option. Most customers choose silence.

The
cost of writing these comments are too much to most Hong Kong citizens. To
me
too, but justice compels.

Wish it is not because of the niche market and the small fractions of the
total
consumption that the present legal system overlooks its damage. Hong Kong
is
still a shopping paradise in Asia, even when Singapore catches up.

PS. I do not wish my name nor my affiliation be disclosed when you publish
the
public views received. I am just trying to conduct as a responsible Hong
Kong
citizen. Thank you.

Regards,