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Subject Consultation on legislation against unfair trade practices -
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*To the Attention of Special Duties Division, Commerce, Industry and Tourism Branch,
Commerce and Economic Development Bureau*

11 October 2010

Dear Sir/Madam

CAHK has consulted the fixed and mobile network operators about the Consultation Paper on Legislation to Enhance Protection for Consumer Against Unfair Trade Practices dated 15 July 2010.

All of the operators are of the view that the amended Trade Descriptions Ordinance (the "TDO") should not apply to the telecommunication sector, same as the other exempted industries (such as financial services, real estate and professional practice).

The above-mentioned industries are exempted because they are under sector-specific regulatory frameworks which offer a similar level of protection as the amended TDO, and that a significant degree of industry-specific knowledge is required for enforcement.

Likewise, the telecommunication sector is under a well-established regulatory regime of the Telecommunications Ordinance, its subsidiary legislations, and various directions and codes of practices issued by OFTA. It is a highly specialised industry that requires technical and professional knowledge and expertise for enforcement and is now being regulated by OFTA, which possess the necessary specialised knowledge and expertise.

In the interest of stability of the industry as a whole, we strongly believe that the telecommunications industry should be, as in the case of the other exempted industries, excluded from the ambit of the amended TDO.

The telecommunication sector has all along been conscious of, and conscientious in, adopting measures to enhance consumer protection. Take for an example, the industry has adopted a Code of Practice for the Provision of Chargeable Mobile Content Service last year to ensure that consumers are better informed of the mobile content service charges and that their consent are obtained before service activation. In continuation of such initiative, the industry has been recently preparing a Code of Practice on Communications Service Contracts, which aims to enhance consumer protection through various proposed measures such as the adoption of a cooling-off period on relevant transactions in line with the amended TDO.

Accordingly, we respectfully submit that the telecommunication sector should remain to be regulated by the existing regulatory regime.

Kind regards

Communications Association of Hong Kong (CAHK)