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Subject Submission to Consultation Paper on Legislation to enhance protection for consumers against unfair trade practices

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Submission by
SmarTone Mobile Communications Limited
to the
Public Consultation Paper on
Legislation to Enhance Protection for Consumers
Against Unfair Trade Practices

SmarTone Mobile Communications Limited ("SmarTone-Vodafone") is pleased to provide its comments on the captioned consultation paper issued by the Commerce and Economic Development Bureau on 15 July 2010.

1. In Chapter four of the Consultation Paper, it is proposed that the financial services sector, property transactions as well as professional practices regulated by regulatory bodies established by statute need not be brought under the ambit of the expanded Trade Description Ordinance ("TDO"). The considerations for exempting these sectors are that the existing regulatory frameworks of these sectors have offered a similar level of protection as the amended TDO, and that a significant degree of professional and specialized knowledge is required for enforcement.
2. In light of the above, we are of the view that the expanded TDO should not apply to the telecommunications industry. The telecommunications industry has long been regulated by the Telecommunications Authority ("TA") under the Telecommunications Ordinance. The consumer protection provisions under the Telecommunications Ordinance have offered a similar level of protection as the amended TDO. In particular, section 7M of the Telecommunications Ordinance prohibits licensees from engaging in misleading or deceptive conduct.
3. Besides the statutory measures, the TA has also issued a number of codes of practices related to customer protection over the years for the industry

to comply with. Furthermore, the industry has taken the initiative to adopt a Code of Practice for the Provision of Chargeable mobile Content Service issued by Communications Association HK ("CAHK") last year to help regulating the content service provided by third party content service providers.

4. The second consideration for exempting the financial services sector, property transactions as well as professional practices is that a significant degree of professional and specialized knowledge is required for enforcement. The telecommunications industry is highly specialized and both technical and professional knowledge is required for enforcement. As such, the telecommunications industry has been subject to the sector-specific regulatory regime being enforced by the TA.

5. The telecommunications industry is under a well-established sector-specific regulatory regimes and a similar level of protection as the amended TDO has been provided under the Telecommunications Ordinance. SmarTone-Vodafone therefore submits that the telecommunications industry should not be brought under the ambit of the expanded TDO, as in the case of other exempted industries.

SmarTone Mobile Communications Limited

October 2010