



2010/11/03 18:12

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Subject Retail Task Force's comments on the public consultation document on legislation to enhance protection for consumers against unfair trade practices.

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Dear Sir,

As directed by the Convenor of the Retail Task Force of the Business Facilitation Advisory Committee, I submit the Task Force's comments on the public consultation document on "legislation to enhance protection for consumers against unfair trade practices".

Please contact me if you need any additional information.

Thanks.

(See attached file: RTF's submission to CEDB \_unfair trade practices\_.pdf)

Regards,  
(Miss Alice Yuen)  
Secretary, Retail Task Force  
(tel)



RTF's submission to CEDB \_unfair trade practices\_.pdf

## **Retail Task Force's comments on the public consultation document on legislation to enhance protection for consumers against unfair trade practices**

- The Retail Task Force of the Business Facilitation Advisory Committee supports the Government's overall objective of enhancing protection for consumers against unfair trade practices. It is however important for the Government to strike a proper balance between protecting consumer interests and avoiding imposing unnecessary burden on businesses under the proposed regulatory framework. For better protection of business rights and consumer rights, the Government should consider setting up an independent authority similar to the Australian Competition and Consumer Commission and the UK's Office of Fair Trading in Hong Kong instead of relying too heavily on the Consumer Council's mediation.
- The Government should avoid adding unnecessary regulatory burden on the retail sector which is subject to myriad new regulations in recent years. We are concerned about the need to impose more criminal sanctions under the proposed regulatory framework. A lot of important concepts presented in the Consultation Document such as the concept of the average consumer lack clarity and certainty. It is also unclear who will be held liable for the new offences. It is difficult to draw the line between "aggressive" and "enthusiastic" sales practice. The trade will need more details to make informed judgements about the impact of the proposed changes and the need for the proposed new offences as set out in the Consultation Document.
- The Government should continue to engage the trade and address their concerns about implementation issues before submitting the legislative proposals for Legislative Council's approval. The business impact of various new proposals should be carefully evaluated, and the conduct of a Business Impact Assessment study is recommended.
- It might be difficult to measure whether there are misleading omissions of services since different trades have different standards.
- While consumers are relatively well protected against unfair trade practices for general consumer goods, they seem to get less protection in property transactions and the Government should address this issue.

- For sector-specific regimes, we appreciate the logic behind the Government's proposal that the financial services sector regulated by statutory regulatory bodies such as the Hong Kong Monetary Authority, the Securities and Futures Commission, the Mandatory Provident Fund Schemes Authority, etc do not need to be brought under the ambit of the expanded Trade Description Ordinance (TDO). We also see no objection to the Government's proposal that concurrent enforcement powers be given to the Telecommunications Authority and the Broadcasting Authority under the TDO in respect of the telecommunications and broadcasting sectors respectively. However, we do not consider it justified to exempt property transactions which usually involve substantial amount of money from the expanded TDO, given that the Real Estate Developers' Association of Hong Kong is not a statutory body. The Government should consider covering property transactions under the expanded TDO framework to provide greater consumer protection.
- For cooling-off arrangements, we agree that the Government should not impose mandatory cooling-off periods across the board. As the mandatory imposition of cooling-off periods will change the established concept of contract in Hong Kong, the Government should duly assess the business impact and avoid imposing unnecessary compliance costs on businesses. As customers should also be responsible for their decisions when entering into contracts for goods and services, it may not be justified to require full refund of money paid by consumers.
- Businesses such as supermarkets which advertise a large quantity of items every day might be caught inadvertently under the offence of bait advertising. They might not be able to supply advertised products due to various reasons. Some products imported from overseas countries are seasonal. Some products have short shelf life and limited stock. Some products might need to be recalled due to food safety reasons. The Government should consider the practicality of the proposed offence of bait advertising.
- The provisions under the proposed regulatory framework should make it clear that unfair trade practices are separate from product warranty.