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Consumer Council's Submission to the Commerce and Economic Development Bureau in Response to the Public Consultation on Trade Descriptions Ordinance

27 August 2026

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Background

- The Commerce and Economic Development Bureau (CEDB) is consulting the public on policy proposals relating to the Trade Descriptions Ordinance (TDO).
- In response to the problems of pre-payment mode of consumption in beauty and fitness industries and the considerable risks faced by consumers under unfair trade practices, the Government has put forward three policy proposals:
  1) Stipulating a statutory cooling-off period on pre-paid consumer contracts for beauty and fitness services;
  2) Imposing a statutory limit on contract duration and other restrictions on pre-paid consumer contracts for beauty and fitness services; and
  3) Including Section 13I of the TDO pertaining to the offence of Wrongly Accepting Payment (WAP) into Schedule 1 to the Organized and Serious Crimes Ordinance (OSCO) to empower the Customs and Excise Department (C&ED) with additional investigatory and enforcement powers.

Overall Comments

- The Consumer Council (the Council) is committed to studying and promoting the protection of consumers' rights and interests. It has been concerned about the potential risks of pre-payment and has persistently advocated for the introduction of a mandatory cooling-off period in Hong Kong. For example, the Council published "A Report to Advocate Mandatory Cooling-Off Period in Hong Kong" (Cooling-off Report) in 2018.
- The Council thus welcomes and expresses overall support for the policy proposals from the Government, as these would form an important step towards a more comprehensive safeguard for consumer interests against unfair trade practices.
- The Council shall make use of its research and statistical analysis of the complaint cases received involving pre-payment and cooling-off period to justify the imminent need of the policy proposals, to support the Council's stance on the details of the policy proposals that are consulted, and to provide additional suggestions for the consideration of the Government.

2. Views on Proposed Scope of Application of the Statutory Cooling-off Period and Statutory Limit on Contract Duration and Other Restrictions

i. Scope
ii. Exemptions

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Views on Proposed Scope

The Government's proposal: For beauty and fitness services contracts, impose statutory cooling-off period, statutory limit on contract duration and other restrictions. (Paragraphs 3.7 and 3.8 of the consultation).

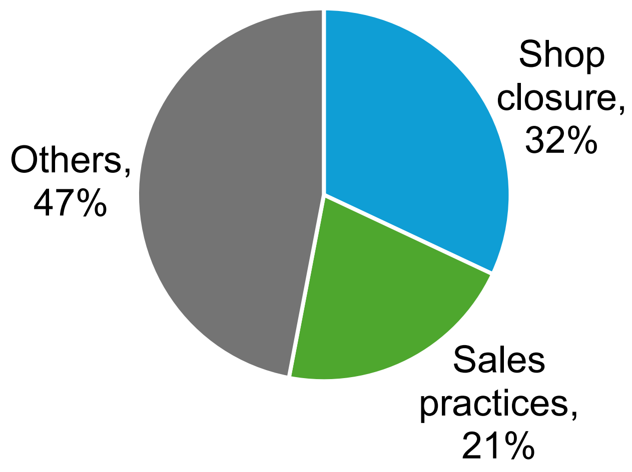
The Council agrees with the Government's proposal.

- The Council received **9,990** complaints in beauty services industry and **8,120** complaints in fitness service industry from 2020 to 2025. A significant share of complaint nature in beauty services (53%) and fitness services (75%) industry are **related to shop closures and sales practices**. The proposed statutory cooling-off period and statutory limit on contract duration can help alleviate risks and potential losses arising from high pre-paid amounts and high-pressure and persuasion selling tactics.

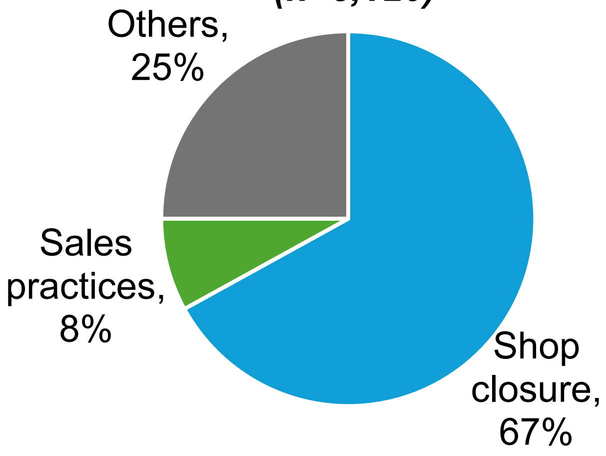
Council's analysis:

2020 - 2025

Beauty services industry (n=9,990)



Fitness services industry (n=8,120)



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Analysis on Proposed Scope – Beauty services complaint statistics by complaint nature (2020 - 2025)

Nature	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	%
Shop Closure	95	1,055	70	119	1,629	221	3,189	32
Sales Practices	276	408	287	463	377	284	2,095	21
Quality of Services	180	258	208	277	382	474	1,779	18
Variation/ Termination of Contract	120	214	199	243	260	211	1,247	13
Suspected Unsafe Product/ Services	54	81	105	128	66	71	505	5
Late/ Non-Delivery/ Loss	27	56	95	96	84	50	408	4
Expiry Date	57	56	47	81	48	33	322	3
Price/ Charges Dispute	24	50	47	62	64	71	318	3
Free Gifts/ Discounted Goods	4	4	4	5	6	2	25	<1
Quantity	5	6	8	2	1	3	25	<1
Quality of Goods	0	1	1	2	2	12	18	<1
Hygiene	2	2	1	1	3	3	12	<1
Suspected Spurious Goods	0	1	4	2	0	2	9	<1
Wrong-Model	0	0	2	2	2	3	9	<1
Others	6	8	5	2	5	3	29	<1
TOTAL	**850**	**2,200**	**1,083**	**1,485**	**2,929**	**1,443**	**9,990**	**100**

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Analysis on Proposed Scope – Beauty services complaint statistics by sub-nature in sales practice category (2020 - 2025)

Sales Practice - Sub-Nature	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	%
Coercion/ Harassment	67	79	65	104	58	104	477	23
False/ Misleading representation	46	76	48	58	52	57	337	16
Misleading Omission	15	33	22	41	22	16	149	7
Bait & Switch	4	4	23	27	11	14	83	4
Misleading/ Bait Advertisement	2	2	6	12	20	15	57	3
Wrongly Accepting Payment	0	3	3	6	5	7	24	1
Price Indication	0	2	0	3	4	2	11	<1
Others	142	209	120	212	205	69	957	46
TOTAL	**276**	**408**	**287**	**463**	**377**	**284**	**2,095**	**100**

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Analysis on Proposed Scope – Fitness services complaint statistics by complaint nature (2020 - 2025)

Nature	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	%
Shop Closure	32	398	320	44	4,496	111	5,401	67
Variation/ Termination of Contract	126	161	189	186	180	155	997	12
Sales Practices	161	127	70	124	99	104	685	8
Quality of Services	79	57	47	69	70	105	427	5
Price/ Charges Dispute	64	84	92	26	27	33	326	4
Late/ Non-Delivery/ Loss	12	19	30	26	19	63	169	2
Expiry Date	16	12	8	11	5	8	60	<1
Suspected Unsafe Product	1	6	4	7	2	2	22	<1
Hygiene	6	1	0	0	1	1	9	<1
Free Gifts/ Discounted Goods	0	0	4	0	1	0	5	<1
Quantity	0	0	1	1	1	1	4	<1
Suspected Spurious Goods	0	0	0	2	0	0	2	<1
Others	1	5	4	3	0	0	13	<1
TOTAL	**498**	**870**	**769**	**499**	**4,901**	**583**	**8,120**	**100**

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Analysis on Proposed Scope – Fitness services complaint statistics by sub-nature in sales practice category (2020 - 2025)

Sales Practice - Sub-Nature	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	%
Coercion/ Harassment	65	35	25	37	15	34	211	31
False/ Misleading representation	13	16	9	13	10	25	86	13
Misleading Omission	8	11	8	10	10	5	52	8
Misleading/ Bait Advertisement	1	0	0	4	0	3	8	1
Wrongly Accepting Payment	0	0	1	1	0	5	7	1
Bait & Switch	0	0	1	0	1	4	6	<1
Unfair Standard Contract Terms	0	0	0	0	1	1	2	<1
Others	74	65	26	59	62	27	313	46
TOTAL	**161**	**127**	**70**	**124**	**99**	**104**	**685**	**100**

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Views on Exemptions

The Government's proposal (Paragraph 3.9 and 3.10 of the consultation):

1. **Exempting fitness services contracts associated with premises that provide only one single type of service (such as yoga studios, dancing studios, martial arts studios, etc.).**
2. **Exempting relevant services provided at premises managed by the Government, the Hospital Authority and its subsidiaries, the Board of Governors of the Prince Philip Dental Hospital, schools and education institutions, charitable organisations, national sports associations, and in clubhouses on private recreational leases, hotels and residential properties.**
3. **No exemption for services provided at private healthcare facilities and/or by registered healthcare professionals.**

The Council generally agrees with the Government's proposal with the following consideration:

- The Council opines that while **preventing over-regulation**, the Government should review the risk of **unfair competition** when considering any exemptions, such as competition concerns as fitness centers offering more than one type of service are not exempted. In practice, it may be **difficult to draw clear boundaries for the exempted services** during enforcement.

3. Views on Proposed Operational Arrangements for the Statutory Cooling-off Period

i. Regulatory threshold
ii. Length of cooling-off and refund period
iii. Prohibition of curtailment of the cooling-off arrangement
iv. Other proposed operational arrangements

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Views on Regulatory Threshold for Statutory Cooling-Off Period

The Government's proposal: Use contract amount as regulatory threshold while consulting whether the applicable threshold should be (i) ≥\$3,000; (ii) ≥\$8,000; or (iii) ≥ \$15,000 (Paragraph 4.1 of the consultation).

Council's analysis:

- Out of **9,990** complaints in **beauty** services industry from 2020 to 2025, **73%** had a contract amount ≥\$3,000.
- **56%** and **41%** of contracts involved in complaints in beauty services had a contract amount ≥\$8,000 and ≥\$15,000 respectively.

Contract amount for complaints in beauty services (2020 to 2025)

Beauty Services	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	(%)
Amount involved <\$3,000	146	223	190	278	334	269	1,440	14
Amount involved ≥\$3,000	604	1,628	721	1,010	2,335	1,022	7,320	73
\$3,000 - \$7,999	162	257	207	259	574	256	1,715	17
Amount involved ≥\$8,000	442	1,371	514	751	1,761	766	5,605	56
\$8,000 - \$14,999	119	293	153	202	445	257	1,469	15
Amount involved ≥\$15,000	323	1078	361	549	1316	509	4,136	41
Amount involved not provided	100	349	172	197	260	152	1,230	12
All complaints in beauty services	850	2,200	1,083	1,485	2,929	1,443	9,990	100

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Views on Regulatory Threshold for Statutory Cooling-Off Period

Council's analysis:

- Out of **8,120** complaints in **fitness** services industry from 2020, **78%** had a contract amount ≥$3,000.
- **58%** and **34%** of contracts involved in complaints in beauty services had a contract amount ≥$8,000 and ≥$15,000 respectively.

Contract amount for complaints in fitness services (2020 to 2025)

Fitness Services	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	(%)
Amount involved <$3,000	**131**	**128**	**101**	**100**	**221**	**101**	**782**	**10**
Amount involved ≥$3,000	**264**	**618**	**512**	**305**	**4,216**	**395**	**6,310**	**78**
$3,000 - $7,999	67	171	160	79	996	115	1,588	20
Amount involved ≥$8,000	**197**	**447**	**352**	**226**	**3,220**	**280**	**4,722**	**58**
$8,000 - $14,999	66	210	167	82	1,338	81	1,944	24
Amount involved ≥$15,000	**131**	**237**	**185**	**144**	**1,882**	**199**	**2,778**	**34**
Amount involved not provided	**103**	**124**	**156**	**94**	**464**	**87**	**1,028**	**13**
All complaints in fitness services	**498**	**870**	**769**	**499**	**4,901**	**583**	**8,120**	**100**

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Views on Regulatory Threshold for Statutory Cooling-Off Period

The Council agrees with the Government's proposal to use contract amount as regulatory threshold, which could avoid affecting low-value transactions while still providing protection to consumers.

The Council proposes an applicable threshold of ≥$3,000. Adopting this threshold would **enable coverage of the majority of contracts that are of potentially higher risk**, whereas adoption of ≥$8,000 or ≥ $15,000 would reduce coverage by up to 17 percentage points and 32 percentage points respectively for beauty services, and up to 20 percentage points and 44 percentage points respectively for fitness services.

Other suggestions:

- Clarification might be needed on whether **contract renewals** are exempted from providing cooling-off period as well as whether renewals also need to follow the proposed operational arrangements such as providing information note and model cancellation notice.

- Potential side effects to circumvent the mandatory requirement may emerge, such as **services offered through affiliated but separate legal entities** (e.g. for yoga and gym services) and **splitting contracts** by service type to avoid cooling-off obligations or splitting contracts to stay below the contract amount regulatory threshold. The Council will **keep monitoring** its complaint statistics on an ongoing basis and **alert** relevant parties to any malpractices identified.

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Views on Length of Cooling-off and Refund Period

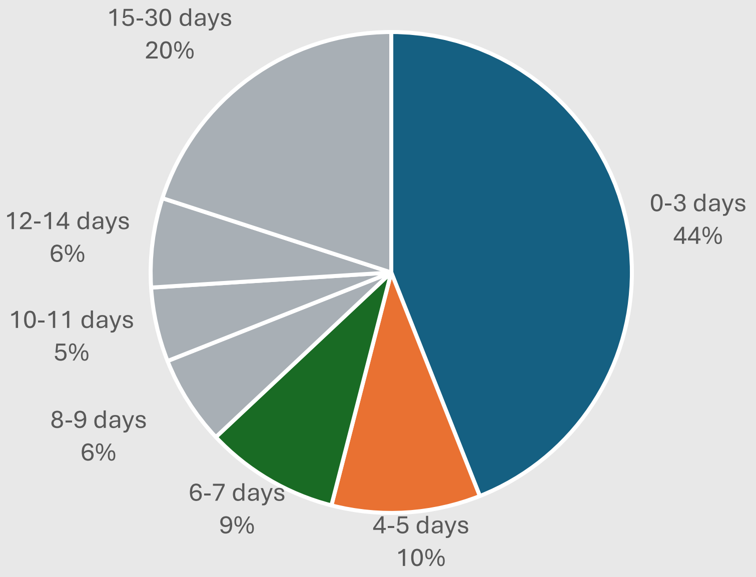
The Government's proposal: Cooling-off period of 7 calendar days; Refund period of 14 calendar days (Paragraph 4.2 of the consultation).

Council's analysis:

- **1,530** complaints in beauty services industry and **654** complaints in fitness service industry from 2020 to 2025 involving **sales practices and variation or termination of contracts** where transaction dates were mentioned and the complaint was made within 30 days of transaction were analysed.
- **63%** **(beauty)** and **70%** **(fitness)** of the complaints were made within 7 days of the transaction.
- Some traders voluntarily offered a cooling-off period, but the duration was short (e.g. 2 days).
- Some traders offered refund, yet the refund periods varied, and some could be quite long (e.g. 60 days).

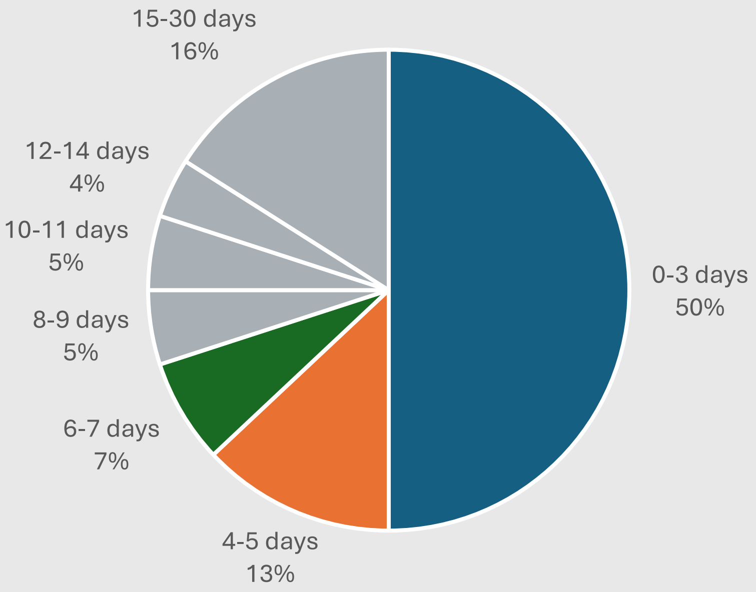
Time gap between the transaction and complaint for cases involving sales practices and variation or termination of contracts (2020 to 2025)

Beauty services industry (n=1,530)



Within 7 days: 63%

Fitness services industry (n=654)



Within 7 days: 70%

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Views on Length of Cooling-off and Refund Period

The Council agrees with the Government's proposal.

- A cooling-off period of 7 calendar days would allow sufficient time for most consumers to reflect and act on their right to cancel the contracts, as a majority of the complaints related to beauty and fitness services were made within 7 days of the transaction.
- With a 7-calendar-day cooling-off period, traders should correspondingly be allowed a longer refund period. 14 calendar days is a fair timeframe.

Other suggestions:

- The Council **encourages traders to voluntarily provide a more competitive cooling-off policy**, such as offering a cooling-off period of more than 7 calendar days.

Views on Prohibition of Curtailment of the Cooling-off Arrangement

The Government's proposal: Prohibiting the curtailment of the cooling-off arrangement (Paragraphs 4.3 of the consultation).

The Council agrees with the Government's proposal.

- The Council observes that one of the major problems of voluntary cooling-off is that **consumers could unknowingly lose their cancellation rights**, for example, upon commencement of services or acceptance of gifts from traders.
- If the curtailment of the cooling-off arrangement is not prohibited, this would seriously undermine the intended effect of providing a mandatory cooling-off period to combat unfair trade practices (as per the Council's Cooling-off Report p. xiii).

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Views on Other Proposed Operational Arrangements – Provision of information note and model cancellation notice

The Government's proposal: Traders to provide information note and model cancellation notice to consumers before entering into contracts (Paragraphs 4.4, 4.5 and 4.10 of the consultation).

- **The information note will contain the consumers' right in contract cancellation and a list of relevant information (e.g. traders' basic information, means to cancel the contract, and administrative fees).**
- **Consumers may choose to use the model cancellation notice or cancellation notice in any other formats to inform traders of their decision of contract cancellation, provided there is sufficient information for identifying the contract purported to be cancelled, and their decision to cancel the contract is clearly stated.**
- **The cooling-off period to commence only after traders provide the information note and model cancellation notice. If traders fail to do so, the cooling-off period will be extended to a maximum of six months after the contract is entered into.**

The Council agrees with the Government's proposal.

- Consumers should be encouraged to **use the model cancellation notice**. The use of a model cancellation notice would **minimise confusion and reduce unnecessary arguments** between consumers and traders, as it may not always be a straightforward exercise for traders to confirm consumers' intention of cancellation (as per the Council's Cooling-off Report pp. 73-74).
- The model cancellation notice, which per the consultation will be included in the proposed legislation in future, should **include details of the cancellation right**, such as the time limit, required procedures, and responsibilities after cancellation (as per the Council's Cooling-off Report p. 72).

Views on Other Proposed Operational Arrangements – Charges for services already consumed

The Government's proposal: A trader may deduct a charge for the services consumed by the consumer during the cooling-off period (Paragraphs 4.7 and 4.8 of the consultation).

- **The charge for the services should make reference to the unit price calculated on a pro-rata basis of the total amount of transaction. If that is not possible, it can be based on the actual price of the services already consumed.**
- **If consumers have purchased the services at a discounted price, the deductible charge may be based on the marked price prior to any discounts for a single service, subject to a cap of 150% of the unit price calculated on a pro-rata basis or actual price of the services already consumed as mentioned above.**

The Council agrees with the Government's proposal.

- The Council agrees that unit price chargeable upon exercise of cooling-off right can be higher for bulk purchase discounts, as long as it is reasonable and not a penalty.

Other suggestions:

- As some contracts might entail gifts (e.g. cosmetic products when purchasing beauty treatment packages), to minimise confusion and reduce unnecessary arguments between consumers and traders, the Government may consider **setting out how gifts are to be handled** when consumers exercise their cooling-off rights. The Council opines that there should be provision for fair value assessment and for consumer's right to refund without deduction upon return of the gifts.

Views on Other Proposed Operational Arrangements – Administrative fees

The Government's proposal:

- **Allowing traders to deduct an administrative fee of up to 2% for non-cash one-off payment, and up to 5% for non-cash instalment (Paragraph 4.9 of the consultation).**
- **However, administration fees and charges of services consumed cannot be deducted from the refund amount if they are not mentioned in the information note or if traders do not provide consumers with the information note (Paragraph 4.10 of the consultation).**

General observations from Council's complaint cases:

- There were cases where traders gave contradictory information at different times about whether administrative fees would be charged for refunds.
- Administrative fees charged varied amongst traders. In some cases, the fees charged were high, reaching over 10%.

The Council agrees with the Government's proposal.

- The Council notes that the contract template issued by the Guangdong Administration for Market Regulation and the Sports Bureau of Guangdong Province allows the fitness industry to charge an administrative fee of 5% of the contract amount, capped at RMB 500.
- The Council opines that disallowing traders from charging administrative fees or services consumed if such information is missing from the information note can **encourage traders to give clear information** about such fees and charges to consumers.

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Views on Other Proposed Operational Arrangements – Ancillary contracts

The Government's proposal: Ancillary contracts to be rendered void, if the main contracts are cancelled within the cooling-off period. Traders shall be responsible for informing the relevant third parties that the ancillary contracts are void (Paragraph 4.11 of the consultation).

The Council agrees with the Government's proposal with the following considerations:

- The Council welcomes the Government adopting the views contained in the Cooling-off Report to render ancillary contracts void in case of cancellation during cooling-off period. (p. 82 of the Cooling-off Report).
- The Government may consider **providing further guidance on operational details**, such as whether consumers need to pay for services consumed in the case of ancillary contracts, how administrative fees would be charged, and how refunds would be returned to consumers.
- The Council opines that where an ancillary contract is voided as a result of cancellation of the main contract within the cooling-off period, there should be **limits on administrative fees payable** (if any) upon the cancellation and/or interest chargeable under the ancillary contract up to the date of avoidance. Secondly, such charges, if any, should be **stated conspicuously** by the lender to the consumer. Thirdly, consideration may also be given to **extending the enforcement notice mechanism to failures to treat ancillary contracts as void** (or otherwise arranging cancellation of the ancillary contract) following lawful cancellation, thus targeting lenders beyond traders.

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Views on Other Proposed Operational Arrangements – Redress mechanisms

The Government's proposal (Paragraph 4.12 of the consultation):
(a) To encourage consumers, through publicity and public education, to first seek the Council's help to conciliate disputes with traders;
(b) To create a statutory right to enable consumers to take civil actions to recover losses or claim damages arising from traders' failure to make refunds upon contract cancellation;
(c) To empower the Commissioner of Customs and Excise to investigate cases of non-compliance and may issue an enforcement notice to the trader. Non-compliance with the enforcement notice is a criminal offence and liable to a fine, with a maximum fine of $100,000 on first conviction and maximum fine of $200,000 for each subsequent conviction. A further daily fine of $1,000 may be imposed for a continuing offence.

The Council agrees with the Government's proposal with the following considerations:

(a) The Council **stands ready to conciliate disputes** between consumers and traders.

(b) The statutory right should extend to taking civil action against the **persons involved** in the non-compliance and recovering unlawful charges or deductions made canvassed in Chapter 4. This mirrors current s.36 (Action for damages) of the TDO, which provides that "*If (a) a person (the claimant) suffers loss or damage because of conduct of another person (not being an exempt person) that is directed to the claimant; and (b) the conduct constitutes an offence* [of false trade description, misleading omissions, aggressive commercial practice, bait advertising, bait and switch, wrongly accepting payment], *the claimant may recover the amount of the loss or damage by action against that other person, or against any person (not being an exempt person) involved in the contravention*".

(c) The Council opines that imposing heavier fines on repeat offenders can **strengthen deterrence**, while the imposition of daily fines can help **encourage traders to make refunds in timely manner**.

4. Views on Proposed Operational Arrangements for the Statutory Limit on Contract Duration and Other Restrictions

i. Contract duration
ii. Other contract restrictions
iii. Penalty

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Views on Contract Duration

The Government's proposal: Maximum period of 2 years for pre-paid consumer contracts for beauty and fitness services (Paragraph 5.2 of the consultation).

Council's analysis:

- Complaints from 2024 to 2025* were analysed, among which **404** involved trader closure and had mentioned the contract duration (*e.g.*「*簽約期*」*&*「*到期日*」*)*.
- Majority of complainants were locked into longer-term contracts:
  - **64%** involved contracts longer than **2 years**;
  - **50%** involved contracts longer than **3 years**
- The share of complaints on fitness services with a longer contract duration was markedly higher compared to complaints on beauty services.

** Cases that mentioned contract duration were identified through manual review. Given the large number of cases, the analysis was therefore limited to a 2-year period. That said, the selected period included several major trader-closure incidents (e.g. Physical, Dioufoot, Ginza Calla), providing sufficient observations to support the analysis.*

Duration of contracts on trader closure relating to beauty and fitness services (2024 - 2025)

2-year duration

	Beauty		Fitness		Total	
Duration	**No. of cases**	**(%)**	**No. of cases**	**(%)**	**No. of cases**	**(%)**
> 2 years	66	48	192	72	258	64
≤ 2 years	72	52	74	28	146	36
Total	138	100	266	100	404	100

3-year duration

	Beauty		Fitness		Total	
Duration	**No. of cases**	**(%)**	**No. of cases**	**(%)**	**No. of cases**	**(%)**
> 3 years	40	29	160	60	200	50
≤ 3 years	98	71	106	40	204	50
Total	138	100	266	100	404	100

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Views on Contract Duration

The Council agrees with the Government's proposal.

- A majority of the Council's complainants on trader closure relating to beauty and fitness services were locked into contracts lasting longer than 2 years. The Government's proposal can **reduce consumers' potential financial losses** in case of trader closure.

Other suggestions:

- While the proposal from the Government states that the statutory limit on contract duration and other restrictions would be applicable to all types of beauty and fitness services contracts, the Council opines that the Government should ensure the limit and other restrictions would **cover both (1) membership contracts; and (2) contracts relating to classes, treatments and the like** in the beauty services and fitness services industry.

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Views on Other Contract Restrictions - (i) Contract effective date

The Government's proposal: Prohibit contracts that take effect later than 3 months after the contract is entered into (Paragraph 5.3 of the consultation).

Council's analysis:

- Complaints from 2024 to 2025* were analysed, among which **403** were related to trader closure with the contract commencement date (合約生效期) mentioned.
- A **majority** (87%) of these complaint cases involved contracts **commencing 3 months or less after signing**. Among the remaining 13%, some commencement dates could be as long as 10 years or more.

Date of commencement of contracts for Council complaints relating to beauty and fitness services (2024 to 2025)

	Beauty		Fitness		Total	
Date of commencement	**No. of cases**	**(%)**	**No. of cases**	**(%)**	**No. of cases**	**(%)**
≤ 3 months after signing	**156**	**99**	**193**	**78**	**349**	**87**
> 3 months after signing	**1**	**1**	**53**	**22**	**54**	**13**
> 3 to ≤ 6 months after signing	0	0	8	3	8	2
> 6 months to ≤ 1 year after signing	0	0	11	4	11	3
> 1 year after signing	1	1	34	14	35	9
Total	**157**	**100**	**246**	**100**	**403**	**100**

** Cases that mentioned contract duration were identified through manual review. Given the large number of cases, the analysis was therefore limited to a 2-year period. That said, the selected period included several major trader-closure incidents, providing sufficient observations to support the analysis.*

Views on Other Contract Restrictions - (i) Contract effective date

The Council agrees with the Government's proposal.

- Our support is grounded in the observation that deferred contract effective date is undesirable as it locks consumer funds and creates prolonged exposure to business failure risk. Prohibiting traders from entering into a contract with consumers that takes effect later than 3 months after the contract is entered into could **minimize exposure to pre-payment risks for the majority of consumers**. If a trader closes down before the contract becomes effective, consumers face a low likelihood of recovering sums paid, as "preferential creditors" are repaid first and consumers are treated as "ordinary unsecured creditors".

Other suggestions:

- During the transition period between the release of the consultation document and the implementation of new arrangements, some unethical traders might amend existing contracts or enter into new contracts to avoid compliance with the proposed requirements. To mitigate these risks, the Council will strengthen consumer education during this interim period, reminding consumers to remain vigilant and exercise caution when signing contracts. The Government may also consider reminding consumers of this through publicity activities and materials.

Views on Other Contract Restrictions - (ii) Prohibitions on entering new contract

The Government's proposal: If a trader has already entered into a contract with a consumer, the trader will be prohibited from entering into a new contract with that consumer for the same services unless one of the following conditions are met (Paragraph 5.4 of the consultation):

- **the existing contract is due to expire in less than three months;**
- **the relevant services set out in the existing contract are used up; or**
- **the remaining balance in the existing contract is insufficient for the consumer to receive a single service**

The Council agrees with the Government's proposal.

- This could prevent traders trying to circumvent restrictions and the cooling-off period requirements, for example by breaking down a contract with a large amount into multiple contracts of smaller amounts.

Views on Other Contract Restrictions - (iii) No waiving of statutory limit on contract duration and other contract restrictions

The Government's proposal: Apart from the aforementioned scenarios that allow extension of the contract duration, the statutory limit on contract duration and other contract restrictions cannot be waived (Paragraph 5.5 of the consultation).

The Council agrees with the Government's proposal.

- This can ensure the effectiveness of contract duration limits and other contract restrictions against unscrupulous trade practices and consumers' prolonged exposure to business failure risk.

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Views on Penalty

The Government's proposal (Paragraph 5.6):

- **To create new offences for the contravention of the limit on contract duration and other contract restrictions.**
- **Traders committing the offences would be liable to a maximum fine of $100,000 for first conviction and a maximum fine of $200,000 for each subsequent conviction.**
- **Upon conviction, the main contract in relation to the offence and the ancillary contracts would become void automatically. Traders should inform the relevant third parties that the ancillary contracts are void automatically.**

The Council agrees with the Government's proposal with the following considerations:

- As with the case for penalties for non-compliance with enforcement notices relating to cooling-off period, the Council opines that imposing heavier fines on repeat offenders can **strengthen deterrence**.
- As with the case for ancillary contracts becoming void automatically after consumer cancellation within the cooling-off period, the Government may consider **providing further guidance on operational details**, such how refunds from ancillary contracts would be returned to consumers.
- We suggest the Government to clarify whether, upon conviction, the main contract and any ancillary contracts would become **void *ab initio* or only from the date of conviction**. From a consumer protection perspective, treating the contracts as **void *ab initio* is preferable**, as this would restore the parties to the position they would have been in had the unlawful contract never been entered into. It would also prevent traders (and lenders) from retaining the benefit of payments received under a contract that was entered into in contravention of the statutory requirements, thereby reinforcing the deterrent effect of the regime and ensuring that consumers receive meaningful redress.

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CONSUMER COUNCIL

Views on Penalty

The Government's proposal (Paragraph 5.7):

- **Empowering the Court to order the trader to pay a reasonable amount of compensation to any person who has suffered financial loss resulting from the offence committed by the trader.**
- **Allowing the amount of compensation ordered by the Court be recoverable as a civil debt to provide consumers with the right to seek redress.**

The Council agrees with the Government's proposal with the following considerations:

- The Government may also consider establishing a statutory right for consumers to take civil actions to recover losses or claim damages arising from a contravention **against the trader and any person involved, similar to the recommendation in paragraph 4.12(b)**. Under the criminal regime, court compensation orders upon conviction may also extend to such persons involved in the contravention, as currently provided in Sections 18A and 20 of the TDO in relation to prevailing TDO offences (e.g. offences committed with the consent or connivance of the director).

5. Views on Proposed Inclusion of Section 131 of TDO into Schedule 1 to the OSCO

消費者委員會
CONSUMER COUNCIL

Views on Proposed Inclusion of Section 131 of TDO into Schedule 1 to the OSCO

The Government's proposal: Including Section 13I of the TDO pertaining to the offence of wrongly accepting payment into Schedule 1 to the OSCO as a "specified offence" (Paragraph 6.1 of the consultation).

The Council agrees with the Government's proposal.

- This can **enhance the investigatory and enforcement powers of the C&ED** with regards to cases of wrongly accepting payment and **strengthen deterrence**, thus helping protect consumers from unscrupulous trade practices.

6. Other Suggestions

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Other Suggestions – Consider a phased regulatory approach to include additional industries in future

Council's analysis:

- **21,264** complaints from 2020 to 2025 in 5 industries commonly involving pre-payment were analysed.
- Around **2,259** cases were about tuition courses / private tuition / interest classes, involving an amount of **$17,845,000** in total.

Complaint statistics by no. of complaints (2020 to 2025)

Industries / Services	2020	2021	2022	2023	2024	2025	Total	
	No. of cases						No. of cases	%
Beauty Services	850	2,200	1,083	1,485	2,929	1,443	**9,990**	**47**
Fitness Services	498	870	769	499	4,901	583	**8,120**	**38**
Tuition Course / Private Tuition / Interest Class	355	279	340	453	391	441	**2,259**	**11**
Wedding Banquet / Wedding Photo Package	191	115	104	69	59	55	**593**	**3**
Time Sharing	58	100	61	43	23	17	**302**	**1**
Total of the five selected industries	**1,952**	**3,564**	**2,357**	**2,549**	**8,303**	**2,539**	**21,264**	**100**

Complaint statistics by dollar amount ($'000) (2020 to 2025)

Industries / Services - Amount ($'000)	2020	2021	2022	2023	2024	2025	Total	
	$'000						$'000	%
Beauty Services	$19,766	$71,144	$20,915	$38,549	$93,483	$32,158	**$276,014**	**49**
Fitness Services	$8,661	$16,879	$13,159	$12,968	$148,993	$16,620	**$217,280**	**38**
Wedding Banquet / Wedding Photo Package	$11,703	$11,308	$5,343	$3,794	$2,706	$2,814	**$37,668**	**7**
Tuition Course / Private Tuition / Interest Class	$2,696	$1,584	$1,871	$4,175	$3,210	$4,309	**$17,845**	**3**
Time Sharing	$3,455	$5,857	$2,253	$1,163	$2,293	$1,818	**$16,838**	**3**
Total of the five selected industries	**$46,281**	**$106,772**	**$43,541**	**$60,649**	**$250,684**	**$57,719**	**$565,645**	**100**

Other Suggestions – Consider a phased regulatory approach to include additional industries in future

To address growing consumer concerns, particularly those surrounding prepayment issues, a phased regulatory approach may be considered.

- Phase 1 The current proposals target industries with a high incidence of disputes and complex payment arrangements, notably beauty and fitness services. These sectors are well-suited for initial regulation due to their recurring consumer issues, while experience can be gained from the implementation of the new regulations.
- Phase 2 Expand the regulatory scope to other industries where the number of complaints and the amount involved were also significant, with statutory mechanism for regulators to issue orders expanding the scope without need for legislative amendment. This can be guided by ongoing analysis of dispute trends and consumer feedback, as well as the experience in Phase 1.
  - Number of complaints and the amount involved in **tuition courses / private tuition / interest classes** were also significant. Within these categories, those which currently fall out of the scope of the Education Ordinance, such as interest classes or life courses, could therefore be considered for inclusion in Phase 2.

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