

# Advocating Best Practice and Competition in the Marketplace

## 倡議最佳營商手法及公平競爭

### WHY THIS IS IMPORTANT

In a market-based economy such as Hong Kong, the Council has a role to play in ensuring that best practice and competition in the marketplace bring desired effects of consumer satisfaction and economic efficiency, thereby benefiting consumer welfare – with lower prices, more choices and higher quality of products and services.

### WHAT WE HAVE DONE

The Council undertakes research and study on various aspects of marketplace behaviour to identify matters of concern to consumers as well as to encourage responsible trade practices and fair competition. The following major work was performed during the year under review.

#### Residential Property Report

The Council released a report entitled “Building a Property Market Information Platform for Home Purchasers”, calling for the creation of a centralised online “Property Market Information Platform” (PMIP), to enhance the flow of reliable and timely information in the first-hand private residential property market in Hong Kong.

In the report, the Council put forward a package of nine recommendations covering several specific problems as identified in its field studies of some residential development projects, namely the absence of comprehensive information source, information disseminated varied in degrees of reliability, and high pressure sales tactics creating anxiety and confusion to prospective purchasers.

The recommendations were aimed to improve the following aspects:

- clear guidelines on pre-launch activities (such as the release of non-official “intentional prices” and “private sales”) of first-hand properties;
- removing impediments (such as imposing onerous registration and appointment procedures) to viewing of show flats;

### 優良營商手法及公平競爭的重要性

香港是以市場主導的經濟體系，我們有責任通過市場的競爭及確保優良營商手法，令消費者滿意及達致理想的經濟效益，從而讓消費者得享較廉宜、較多選擇及更高品質的產品及服務。

### 我們完成的任務

本會就市場行為的不同方面進行研究，以認明影響消費者的問題，並鼓勵負責任的營商手法和公平競爭。以下為本年度內進行的主要工作。

#### 住宅物業報告

本會發表了「建物業資訊平台 啟置業安居大門」研究報告，建議設立一站式的網上物業市場資訊平台 (Property Market Information Platform, PMIP)，促進可靠和及時的本港一手私人住宅物業市場資訊流通。

在報告內，本會提出一系列九項建議，主要針對本會實地視察一些樓盤時發現的問題，包括：缺乏全面的物業資訊、可靠程度不一的市場資訊，和高壓式銷售手法，令準買家焦慮和混亂。

有關建議為改善下列各方面：

- 訂立指引規範一手樓開售前的市場活動(例如：發放非正式的「意向價」及以「內部認購」形式銷售)；
- 減低視察示範單位的障礙(例如：過度繁複的登記手續和預約程序)；

- controls over unreliable and deceptive representations (such as distributing unauthorised promotional materials to prospective purchasers); and
- provision of timely, complete and useful property information (such as current transaction prices and unit availability) to prospective purchasers.

The Government has responded positively to the Council's report.

The Council is glad that the Government has set up a Steering Committee and Subcommittees on Regulation of Sale of First-hand Residential Properties by Legislation and invited the Council to participate in these committees to provide views for enhancing the protection of home buyers.

### Sharing of Mortgage Data for Credit Assessment

The Council submitted its views concerning a consultation document issued by the Office of the Privacy Commissioner for Personal Data (PCPD) on sharing of mortgage data for credit assessment in Hong Kong.

In the submission, the Council raised a list of issues that the industry and the regulators would need to address in order to provide the general public a complete and fair evaluation of the proposal of greater sharing of mortgage data. In brief, the Council's views were:

- concerns over data concentration and that the credit database will be a lucrative source of marketing information;
- justifications be needed for inclusion of additional types of mortgage data for general credit assessment;
- public assurance be given to address public concerns about opening up the floodgate that the coverage of the data sharing would progressively extend to more mortgage data;
- implication of mortgage count on consumer credit scoring;
- prior explicit notification and consent-based approach be given to consumers for pre-existing mortgage data to be contributed to the credit reference agency;
- clarification as to the circumstances in which the credit providers can have immediate access and use of mortgage data during the transitional period; and
- explanation of consumer benefits in more explicit terms to demonstrate the effectiveness of the proposal in bringing benefits to consumers.

- 規管不可靠和欺詐性的陳述(例如：向準買家派發未經授權的樓盤資料)；及
- 提供及時和有用的物業資料(例如：最新的物業成交價和單位銷售資料)。

政府對報告作出正面回應。

本會很高興政府成立了「立法規管一手住宅物業銷售督導委員會」及相關的小組委員會，並邀請本會參與這些委員會提供意見，保障買家的權益。

### 共用按揭資料作信貸評估

本會向個人資料私隱專員提交了有關「共用按揭資料作信貸評估」諮詢文件的意見。

在回應文件中，本會提出了一系列業界及監管者需解決的議題，以待公眾可以更全面及公正評估有關擴大共用按揭資料的建議。本會意見如下：

- 關注資料過度密集，以及信貸資料庫的資料將成為利潤掛帥的市場推廣資訊；
- 提供共用其他額外按揭貸款資料作一般信貸評估的理據；
- 給予公開保證，回應公眾擔心一旦開放資料後，將逐步擴大至共用更多的按揭貸款資料；
- 披露按揭宗數資料對消費者個人信貸評分有何影響；
- 採用事先明確通知方式，並取得消費者明示同意將已存在的按揭資料提供予信貸資料機構；
- 釐清在何種情況下信貸提供者可以在過渡期間即時查閱和使用按揭資料；及
- 明確闡述共用按揭資料可為消費者帶來的具體好處。

For better protection of consumers' privacy interests, the Council recommended additional implementation safeguards, namely disclosure of audit compliance results, provision of free consumer credit report, and allowing consumers to post dispute statement in consumer credit report, be imposed.

## Independent Insurance Authority

The Council responded to a consultation paper issued by the Financial Services and the Treasury Bureau (FSTB) on the proposed establishment of an Independent Insurance Authority (IIA) in Hong Kong.

The Council has long urged that a review of the regulatory arrangements for the insurance industry should be carried out. As such, the Council is glad that the Government has taken on board its views on the need to change the existing self-regulatory mechanism for the insurance industry by formulating proposals on establishing an IIA to regulate insurers and insurance intermediaries and protect the interests of insurance policyholders.

The Council was of the view that having an independent statutory body to assume direct supervisory and disciplinary roles over the insurance industry could be more objective and impartial.

With regard to the expanded role of IIA, the Council supports the enhancement of consumer financial capability by giving the IIA an explicit role in proactively educating the public about insurance matters, in addition to directly supervising the conduct of insurance intermediaries. The IIA should also address public concern about the reasonableness of insurance premium increases and the suitability of high risk and complicated insurance products on offer to the consuming public.

In determining the appropriate funding arrangement, the Council does not support having policyholders directly pay the levy. The Council was of the view that the cost of regulation should be borne by the insurance industry as part of its operational cost, instead of shifting regulatory cost to policyholders.

With Hong Kong as an international financial centre, the Council considered that strengthening the protection of policyholders was a task to be given priority and urged the Government to speed up the establishment of IIA especially in light of rising insurance complaints.

為更好保障消費者個人私隱資料的權益，本會提出加強私隱保障措施的建議，包括：披露循規審核報告的結果、向消費者提供免費的信貸報告，以及容許消費者在消費信貸報告列出有爭議事項。

## 獨立保險業監管局

本會回應了財經事務及庫務局關於成立獨立保險業監管局(保監局)的諮詢文件。

一直以來，本會要求全面檢討保險業的規管安排。因此，本會很高興政府接納意見改變保險業現行自我監管機制，並提出成立獨立的保監局監管保險公司及保險中介人，保障保單持有人的權益。

本會認為，由獨立的法定機構直接處理保險業監管及紀律等問題，可以較為客觀及公正。

除直接規管保險中介人的操守外，本會支持賦予保監局明確的監管職能，積極教育公眾認識保險產品。此外，保監局擔當的角色，應包括公眾最為關注保費調整是否合理，以及高風險和複雜的保險產品是否合適向廣大市民銷售等事宜。

就保監局的經費安排，本會不支持由保單持有人直接支付保費徵費。本會認為，監管成本屬保險業的部分營運開支，應由行業負責支付，而非轉嫁予保單持有人。

香港作為國際金融中心，本會認為，加強對保單持有人的保障是急切的工作，促請政府不要延遲立法工作，尤其是保險投訴不斷上升。

## Investor Education Council and Financial Dispute Resolution Centre

The Council gave views to the Financial Services and the Treasury Bureau (FSTB) concerning a consultation document on the proposed establishment of an Investor Education Council (IEC) and a Financial Dispute Resolution Centre (FDRC).

In light of increasing offers of complex financial products and services by various types of financial institutions across the financial sectors, the Council welcomed that the establishment of the proposed IEC to enhance public understanding of different forms of financial products and services across the financial spectrum.

With respect to the institutional set-up of the proposed IEC, the Council considered that setting up an independent statutory body, with funding from relevant financial regulators and the Government, may avoid potential prejudice to the impartiality of the IEC or the misconception that it will tilt towards Securities and Futures Commission (SFC)-regulated products and services if it is to be under the SFC.

As regards the proposed FDRC, the Council welcomed the proposed establishment to provide consumers with an additional channel to resolve their complaints relating to financial products and services. For the benefit and protection of consumer interests, the Council was of the view that the services to be provided by the FDRC should be effective, efficient but not costly.

With respect to the proposed carving out approach of handling monetary disputes, the Council was concerned if this would provide adequate protection to consumers or meet their needs, considering that many of the complaints received by the Council were related to sales practice and service quality which were not necessarily linked to disputes of monetary nature to start with, or provided by financial service providers regulated by the Hong Kong Monetary Authority or the SFC.

The Council therefore recommended that the scope of the financial dispute resolution scheme should be reviewed regularly to check on the appropriateness of its scope. The Council welcomes that the Government has committed to carry out review in future.

## 投資者教育局及金融糾紛調解中心

本會向財經事務及庫務局就設立投資者教育局及金融糾紛調解中心(調解中心)的諮詢提交意見。

鑒於各類金融機構推出日益複雜的金融產品和服務，本會歡迎設立擬議的投資者教育局，加強市民對整個金融業不同形式的金融產品和服務的認識。

就投資者教育局的建議架構，本會認為另設一個獨立的法定組織，由有關的金融監管機構和政府出資成立，可避免公眾對投資者教育局的公正性有任何潛在的疑慮，或誤解以為投資者教育局設於證監會之下，將會令它偏重於證監會規管的金融產品和服務。

就建議設立的金融糾紛調解中心，本會表示歡迎，為消費者提供多一個渠道處理他們在金融產品和服務方面的投訴。為達到效益和保障消費者權益，本會認為調解中心提供的服務應具成效、效率和費用相宜。

對於調解中心將負責解決金融服務的金錢糾紛的做法，本會關注這未必能夠為消費者提供足夠保障或滿足他們的需要，尤其是考慮到本會接獲的投訴個案大多數涉及銷售手法和服務質素，而且不一定在投訴初期便知道與金錢糾紛有關，又或是受金管局或證監會監管的金融機構。

為此，本會建議應定期檢討金融糾紛調解計劃的適當涵蓋範圍。本會歡迎政府承諾日後會作出檢討。

## Health Protection Scheme

The Council provided views in response to a consultation document issued by the Food and Health Bureau (FHB) regarding the introduction of a voluntary Health Protection Scheme (HPS).

In previous submission, the Council expressed the need for the Government to take some form of regulatory control on healthcare services and health insurance as an inseparable component of any policy that would move more population to the health insurance market. The Council is glad to note the Government's launch of the second stage healthcare reform with proposals on introduction of a voluntary and government-regulated HPS.

The Council believed that some of the HPS features would help address health insurance problems faced by consumers. The Council provided the following comments in relation to the proposed HPS, with a view to protecting consumer interests in healthcare services and health insurance.

- oversee the reasonableness of subsequent premium adjustment and consumers' affordability to keep up with health insurance premium in the long run;
- out-patient services should be included as core items under the HPS to ensure adequate benefit coverage and limits for the HPS plans in meeting consumer needs;
- premium schedules be published for public information and sales practices be regulated regarding Standard Plans and other HPS plans (top-ups);
- assist those most in need of healthcare protection to have easier access to healthcare services, through lowering the entry barriers to the HPS;
- facilitate the choice of healthcare insurance under the HPS by constructing a website, listing for comparison information (including protection coverage and premiums) on all HPS plans;
- introduce other modes of premium discounts as the provision of the "No-Claim Discount" may constitute a disincentive for consumers to seek medical treatment;
- include supportive measures to facilitate employers' migration of their existing health insurance to the HPS, and introduce appropriate safeguards to prevent employers from reducing employee medical benefits; and
- quality assurance and performance benchmarks be in place for assessment of healthcare service quality and package charging, for ensuring value-for-money service.

## 醫保計劃

本會向食物及衛生局，提交有關制定自願醫療保障計劃（醫保計劃）諮詢文件的意見。

在過往提交的意見書中，本會表示，如政策促使市民進入醫療保險市場，政府須考慮引入某種形式來規管醫療服務和保險，作為政策中不可或缺部分。本會很高興政府在醫療改革第二階段諮詢推出自願參與及受政府監管的醫保計劃建議。

本會相信，醫保計劃將有助解決過往消費者在醫療保險方面遇到的部分問題。就醫保計劃內容，本會提出下列意見：

- 監察保費調整的合理性，以及長遠來說消費者能否負擔得起保費；
- 包括門診服務在「標準醫保」內，確保計劃的保障範圍及水平提供足夠保障；
- 公開保費表，以及規管標準醫保和「附加項目」的銷售手法；
- 透過調低參與醫保計劃的門檻，協助最需要醫療保障的人士較易取得醫療服務；
- 設立網站，列出及比較每個醫保計劃的保障範圍及保費資料，幫助消費者選擇合適的醫保計劃；
- 推出其他模式的保費折扣，因無索賠折扣可能會令到消費者患病也不尋求診治；
- 提供支援措施，推動僱主轉移現有的醫療保險至醫保計劃，以及制訂適當措施防止僱主藉此減少僱員的醫療福利；及
- 訂立品質保證和服務表現基準，以評估醫療服務質素及套餐式收費是否物有所值。



## Forum on Competition Law and Policy

The Council's Chief Executive is a member of the Government's Competition Policy Advisory Group.

In fulfilling its statutory role of tendering advice to the Government, the Council organised a forum for small and medium enterprises in December 2010 to solicit their views and concerns about the Government's public consultation on the proposed Competition Bill. Over 120 participants from different industries and trade associations attended the forum.

## Competition Bill 2010

The Council supports the enactment of the Competition Bill being discussed by the Bills Committee of the Legislative Council at the time of writing this report. The Bill aims to prohibit and deter undertakings in all sectors from adopting anti-competitive conduct which has the object or effect of preventing, restricting or distorting competition in Hong Kong.

The Council agrees that the general prohibition approach adopted for the Conduct Rules in the Bill is appropriate for a cross-sector competition law. The Council notes a concern, particularly among the business communities, that not prescribing the conduct which would constitute anti-competitive conduct could lead to uncertainty to the industries. The Council however considers that the general prohibition approach would offer great flexibility to cater for the circumstances of different sectors and changing business practices. The Council believes that uncertainty could be tackled by the future Competition Commission by way of regulatory guidelines.

The Council launched a series of activities to arouse public interest and attention towards the Bill. The activities included producing and distributing flyers in Chinese and English, and organising seminars and talk to engage small and medium size enterprises and reaching out to consumers through the media for them to understand and support the legislation to safeguard and foster competition in the marketplace.

## 「競爭法：中小企的新契機」研討會

本會總幹事為政府的競爭政策諮詢委員會的成員。

為執行本會向政府提供意見的法定職能，本會於二零一零年十二月舉行了一個中小企業研討會，以蒐集中小企公司就建議中的《競爭條例草案》的意見和問題，超過120位來自不同行業和工商組織的人士參加研討會。

## 《競爭條例草案》

本會支持就撰寫此年報時立法會法案委員會正在討論的競爭條例草案進行立法。該條例草案旨在禁止和阻遏各行業的業務實體作出反競爭行為，以至有妨礙、限制或扭曲在香港競爭的目的或效果。

本會認為條例草案中的行為守則，採用涵蓋性及禁止式的模式，適合香港的跨行業競爭法。本會留意到部分人士(特別是商界)的關注，在沒有訂明那些行為將構成反競爭行為下，可能為行業帶來不確定性。但本會認為，涵蓋性的禁止模式具有更大的靈活性，有助應付不同的行業情況和不斷變化的營商手法。本會相信將來的競爭事務委員會可就不確定之問題，訂立監管指引，將問題解決。

本會推出了一系列活動，以喚起公眾對條例草案的關注和興趣。這些活動包括製作和分發中、英文宣傳單張，為中小型企業舉辦研討會和演講，通過媒體將訊息帶給消費者，令他們了解及支持競爭法立法，促進市場競爭。

## Other Studies

The Council responded throughout the year to a number of requests from industries and consumers to look into a range of issues affecting consumers in the marketplace. Those issues included pricing practices of auto-diesel and the exclusive practices of private hospitals.

## Responses to Consultation Papers

In addition to the above, the Council also commented on consultation papers released by the Government and others bodies on matters affecting the interests of consumers. A list of the submissions can be found at Appendix 6.

## 其他研究

年內，本會因應不同行業及消費者的訴求，對市場上多個影響消費者的課題作出研究，包括：汽車柴油的定價及私家醫院的壟斷行為。

## 對諮詢文件的回應

上述之外，本會亦就政府及不同團體的諮詢文件，有關影響消費者的課題，提供意見。詳情請參閱附錄六。