

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.

Legislation to regulate the sale of first-hand residential properties

The Council submitted views to the Transport and Housing Bureau and the Legislative Council concerning the Residential Properties (First-hand Sales) Bill ('the Bill').

The Council was invited to participate as a member of the Steering Committee on Regulation of the Sale of First-hand Residential Properties by Legislation to provide views on the scope of the legislative framework. The Council is glad that the Bill included quite a number of its suggestions, including the urge for new legislation to extend the scope of coverage of first-hand residential properties, the establishment of an online property market information platform, shortening of the lead time for disclosing transaction information, as well as the requirements on show flats, dissemination of price lists and sales brochures.

As a whole, the Council fully supported the introduction of the new legislation and urged that the Bill be passed as soon as possible.

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。

立法規管一手住宅物業銷售

本會向運輸及房屋局提交有關《一手住宅物業銷售條例草案》(草案)的意見。

本會很高興獲邀為「立法規管一手住宅物業銷售督導委員會」成員，提出對立法規管一手樓銷售的建議，而本會早前所提意見亦被納入有關草案中，包括擴大一手住宅物業的立法規管範圍、設立網上物業市場資訊平台、縮短物業成交資料的披露時間，以及加強規範示範單位、價單和售樓說明書的要求。

整體而言，本會全力支持以立法方式規管一手住宅樓宇的銷售，並促請政府盡快修訂需要修正的條文，早日通過此草案。

The Council believed that many provisions in the Bill, for example, the inclusion of relevant provisions in making any fraudulent misrepresentation, or disseminating false or misleading information relating to the sale of first-hand residential properties a criminal offence, would provide sufficient protection to the interests of home purchasers.

While the Council wholeheartedly supported the Bill, it made some suggestions for amendment, namely to define more clearly the proposed definition of first-hand residential properties, to impose a requirement on developers to offer all the units on price lists for sale, and to prohibit collection of money for reservation of units before the commencement of sales.

The Council also took the opportunity to request the Government to set a schedule for post-legislative review of the issues of providing internal floor area information, introducing 'cooling off right' in property transactions, reviewing mandatory provisions in agreements, and establishing a complaints handling mechanism for purchasers of residential properties.

Regulatory Framework of the Tourism Sector

The Council responded to a consultation on the review of the operation and regulatory framework of the Hong Kong's tourism sector by the Tourism Commission of the Commerce and Economic Development Bureau.

The Council welcomes that the Government had taken on board its suggestion to review the self-regulatory structure of the tourism sector and put forward reform options of the regulatory framework of the tourism sector in the consultation paper.

In considering the best regulatory model to be put in place to cater for Hong Kong's situation and needs, the Council generally preferred introduction of a direct regulatory model – the option of setting up an independent statutory body to take over the overall regulation of the tourism sector.

The Council considered that tourist guides and tour escorts who provide tourism services, whether they are receiving inbound tours or outbound tours, should be more directly regulated with the introduction of licensing systems.

本會相信草案有很多條文，例如：將涉及一手住宅物業買賣而作出具詐騙成分的失實陳述、發布虛假或誤導資訊，定為刑事罪行，將可以讓準買家得到充份保障。

本會原則上支持訂立草案，但在回應文件中亦提出若干的提議，包括要求政府在草擬法例時，必須清楚釐訂「一手樓」銷售的定義、規定發展商發售公布在價單上的所有單位，以及禁止在單位正式開售前收取款項及預留單位。

本會亦建議政府訂立一個時間表，以便稍後檢討其他相關課題，例如：單位內籠面積、就物業交易設立冷靜期、檢討納入物業買賣合約的特定條款，以及設立處理有關物業買賣的投訴機制。

旅遊業運作和規管架構檢討

本會回應了由商務及經濟局轄下的旅遊事務署發出有關「香港旅遊業的運作和規管架構檢討」的諮詢文件。

本會歡迎，政府採納其早前提出應檢討旅遊業自我規管模式的建議，並就旅遊業的規管架構推出改革方案，諮詢公眾意見。

在考慮哪一種規管模式最為切合香港的需要和情況，本會認為採用直接監管方式，即由獨立機構負責整體旅遊業的發牌和規管工作，較為可取。

此外，無論是負責出境或入境團的導遊和領隊，本會認為都須受到發牌制度的直接監管，以提高導遊及領隊的質素和專業性。

Apart from commenting on the desirability of an institutional revamp, the Council also urged that priority be given by the Government to urgently resolve problems arising from zero-fee or negative-fee tours where Mainland tourists joining those tours were forced to make purchases and the need of providing an independent appeal mechanism to handle appeals from travellers concerning disputes between travellers and travel agents.

Establishment of a Policyholders' Protection Fund

The Council provided views to the Financial Services and the Treasury Bureau regarding the proposed establishment of a Policyholders' Protection Fund (PPF) in Hong Kong.

On the whole, the Council welcomed the establishment of a PPF to provide a safety net for better protection of policyholders' interest in the event of insurer insolvency and enhance public confidence in the insurance industry.

The Council urged that the regulatory standards and requirements for supervision of insurers should not be in any way relaxed notwithstanding the establishment of the PPF in Hong Kong.

Whilst pledging support for mandatory participation of all authorised insurers in the PPF to provide universal protection to policyholders, the Council considered it important to clarify if exemption from the PPF would be provided for an overseas insurer. In any case, consumers should be made aware of whether insurers they are dealing with or policies concerning them are eligible for protection.

As for the funding issue, the Council strongly supported that the cost of financing the PPF should be borne by insurers.

除提出改革規管架構的意見外，本會亦促請政府盡早處理「零負團費」旅行團內地旅客在港被迫購物的情況，以及設立獨立上訴機制處理旅客與旅行社之間的問題。

設立保單持有人保障基金

本會向財經事務及庫務局提供有關擬在香港設立保單持有人保障基金的意見。

整體來說，本會歡迎設立「保單持有人保障基金」(保障基金)；當保險公司因財困倒閉時，保障基金可為保單持有人提供安全網，以及增強公眾對保險業的信心。

此外，本會認為，保障基金的設立，不會對保險公司的規管標準及要求不可因保障基金的設立而有所放寬。

就涵蓋層面方面，本會支持強制所有獲授權的保險公司，必須參與保障基金，為保單持有人提供全面的保障。此外本會認為，必須釐清海外保險公司會否獲豁免參與保障基金。若獲豁免的話，消費者須獲清楚告知向其銷售的保險公司或保單是否在保障範圍之內。

至於保障基金的經費來源，本會強烈支持保障基金向保險公司收取徵費。

Regulation of Mandatory Provident Fund intermediaries

The Council gave views on the legislative proposals to enhance the regulation of Mandatory Provident Fund (MPF) intermediaries by the Financial Services and the Treasury Bureau.

The Council welcomed the Government's proposal to strengthen the protection of scheme members' interest through establishing a statutory regulatory framework for MPF intermediaries in Hong Kong.

To secure effectiveness, the Council urged that close cooperation and surveillance be carried out by the Mandatory Provident Fund Schemes Authority (MPFA) and the frontline regulators to monitor and deter any improper sales and marketing practices of MPF intermediaries upon the implementation of the Employee Choice Arrangement (ECA). On complaints handling, the Council considered that MPFA as the predominant regulator of MPF intermediaries should serve as the first contact point for scheme members to seek advice in relation to alleged misconduct of MPF intermediaries.

The Council is glad to note that there will be measures in place to ensure regulatory consistency and that the MPFA will receive all complaints on MPF sales and marketing activities as a one-stop shop to facilitate the handing of complaints.

As the proposed establishment of an e-platform for transfer of MPF benefits among MPF schemes would help minimise the costs associated with transfers of benefits, the Council urged the MPFA to explore with the MPF industry in lowering the MPF administration fees and further suggested that scheme members be allowed to access the e-platform to keep track of their fund transfer status. The Council is pleased to note that the possibility of developing another platform to facilitate enquiries from scheme members is under the consideration of MPFA.

強制性公積金中介人的規管

本會就財經事務及庫務局發出有關建議「加強規管強制性公積金(強積金)中介人的規管」諮詢文件，提供意見。

本會歡迎政府設立法定制度規管強積金中介人，加強保障強積金計劃成員的權益。

為確保有效規管，本會認為，強制性公積金計劃管理局(積金局)和前線規管機構應加強合作，以杜絕強積金中介人出現不當的強積金銷售及推廣活動，尤其是當「僱員自選計劃」推行後。在處理強積金計劃成員的投訴方面，本會認為，積金局作為所有強積金中介人領導規管機構的角色，為計劃成員的首個接觸點，應負責接收所有有關強積金中介人的投訴。

本會很高興當局將會採取多項措施以確保規管一致性，以及積金局將提供一站式接收投訴的機制，方便處理計劃成員所有有關強積金銷售和推廣活動的投訴。

此外，由於建議中的電子平台將有利強積金權益轉移至不同的核准受託人，相信會有助減低受託人處理計劃成員轉移權益的成本支出，因此本會促請積金局與業界商討減低強積金的相關行政費用，以及容許計劃成員透過電子平台查核轉移基金的狀況。本會歡迎積金局考慮研發另一個方便計劃成員查詢資料的平台。

Supply and Marketing of Infant formulas

Frustrated by the surge in price and out-of-stock situation of infant formulas, consumers lodged 123 complaints to the Council in the first quarter of the year 2011. Among those complaints, 42 cases concerned with supply. The Council had responded swiftly by urging formula suppliers to ensure adequate and priority supply of infant formula to local consumers and to set up designated customer hotlines. As a result, the number of complaints on out-of-stock situation was down to seven for the rest of the year.

Also, the Council participated in the Department of Health's Taskforce for contribution to the development of the Hong Kong Code of Marketing of Breastmilk Substitutes.

Forum on Competition Law and Policy

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

In fulfilling its statutory role of facilitating constructive discussion and promulgation of pro-consumer policies, the Council organised a public forum in December 2011 to solicit their views on matters relating to the Competition Bill. Over 200 participants from different industries and trade associations attended the forum.

The Council actively participated in the discussion with the public and submitted its views to the Bills Committee on the Competition Bill on various issues such as (i) general approach of prohibitions; (ii) hard-core anti-competitive conducts; (iii) fair-share to consumer criterion in exclusion of any restrictive agreements; and (iv) exemption of statutory bodies.

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.

嬰幼兒奶粉供應和銷售

二零一一年首季，本會收到消費者因不滿奶粉價格上漲以及供應不足的投訴達123宗，當中，42宗涉及供應不足。本會迅速回應消費者訴求，與供應商磋商，確保有穩定及優先貨源提供予本地消費者，並建議供應商設立客戶熱線，當措施施行後，有關奶粉供應不足的投訴於二零一一年餘下三季(四月至十二月)，回落至只有七宗。

此外，本會為衛生署《香港母乳代用品銷售守則》專責小組的成員，就制定有關母乳代用品守則提供意見。

「競爭法：開創公平活力競爭市場」研討會

本會總幹事為政府的競爭政策諮詢委員會的成員。

為執行本會促進建設性討論以制定保障消費者政策的法定職能，本會於二零一一年十二月舉行了一個公眾研討會，就與《競爭條例草案》相關事宜蒐集意見，超過200位來自不同行業和工商組織的人士參加研討會。

本會積極與公眾討論並向立法會競爭條例草案委員會提交法案中各種事宜的意見，如(一)廣義規管反競爭行為；(二)嚴重反競爭行為；(三)協議豁除加入消費者公平分享利益原素；(四)法定機構的豁免安排。

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。