

Advocating Best Practice and Competition in the Marketplace

倡議卓越營商手法及公平競爭

WHY THIS IS IMPORTANT

In a market-based economy such as Hong Kong's, the Consumer 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 with the objective of identifying matters of concern to consumers as well as encouraging responsible trade practices and fair competition. The following major work was performed during the year under review.

Mandatory provident funds

In light of grave public concern over the mandatory provident funds (MPF) issues surrounding the implementation of the Employee Choice Arrangement (ECA), the Council took an initiative to carry out a study on MPF schemes covering more than 500 investment funds.

This was the first time that all fund fees and fund performance of MPF schemes had been produced and released in a consolidated format to facilitate MPF scheme members comparison of different scheme choices in preparing for the ECA. The study also analysed the scope of services and fund choices of various MPF schemes.

To extend the reach of the study findings, a report was published in the CHOICE magazine, as well as a MPF database made available on the Council's website to assist consumers to perform fund comparison.

After the release of the study report, there was wide media coverage raising substantial shock in the community that a sizeable number of MPF funds had recorded negative annualised

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，令消費者稱心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。

我們完成的工作

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。

強積金

鑒於公眾十分關注強積金「僱員自選安排」（即「強積金半自由行」）的實施，本會主動進行了一項有關強積金計劃的研究調查，涵蓋市場上超過500隻強積金基金。

這是自強積金制度推行以來，首次以整合方式同時披露各強積金計劃的基金收費及回報表現數據，讓強積金計劃成員較容易比較不同計劃提供的選擇，為「僱員自選安排」作好準備。這項研究亦同時分析各強積金計劃的服務範疇和基金選擇。

為令更多公眾知悉研究報告內容，本會將報告刊登在《選擇》月刊，以及上載強積金數據資料庫至本會網站，方便消費者比較不同的強積金基金的表現。

returns for the past five years, and that the high fees might not necessarily translate into high returns. It was also revealed that the performance and fees varied significantly from one to another even for the same type of funds.

On the implementation of the ECA, the Council put forward the following recommendations for consideration of the Mandatory Provident Fund Schemes Authority (MPFA):

- providing a one-stop information platform;
- tightening control over MPF intermediaries' sales and marketing activities;
- reducing MPF fees;
- shortening the transfer processing time; and
- working out a timetable for implementing 'full portability'.

The Council is pleased to note that the MPFA has responded positively to the Council's study report and put forward proposals to the Government to reform the MPF system in a bid to bring down MPF fees and to provide better retirement protection for the working population of Hong Kong.

Establishment of an Independent Insurance Authority

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

The Council is glad to note from the proposals that the Government has taken into account a number of the Council's views put forward in its previous submission, including a stopgap damage control measure to suspend licensed insurance intermediaries from carrying on further damaging acts.

Whilst pledging support of the establishment of the IIA to assume a direct supervisory role for rendering effective regulation of the insurance industry, the Council raised a number of concerns for consideration of the FSTB to protect the interests of policyholders. These included:

- potential conflict of interests arising from industry representation in the Governing Board of the IIA;
- demand for raising eligibility criteria for licensing new insurance intermediaries;
- justification for requiring policyholders to bear the regulatory costs; and
- need for effective supervision of insurance intermediary activities among financial regulators.

研究報告出版後，獲得媒體廣泛的報道，尤其關注有相當多強積金基金在過去五年的平均年度回報錄得負數，引起社會極大回響。研究亦發現，收費高的基金未必代表回報一定高，即使是同類別的強積金基金，回報表現及收費也有顯著差別。

就「僱員自選安排」的實施，本會提出幾項建議，供強制性公積金計劃管理局（積金局）作考慮：

- 提供一站式資訊平台；
- 加強規管強積金中介人的推銷及銷售活動；
- 下調強積金收費；
- 縮短轉移權益所需的時間；及
- 制定推行強積金「全自由行」的時間表。

本會很高興積金局積極回應本會的研究報告，並已向政府提出多項改革強積金制度的建議，以期望令強積金收費進一步下調，為香港的就業人口帶來更佳的退休保障。

成立獨立保險業監管局

本會回應了財經事務及庫務局關於在香港成立獨立保險業監管局（保監局）的主要立法修訂諮詢文件。

本會歡迎政府接納本會在上一次諮詢時提出的一些意見，其中包括引入及時制止失當行為的措施，以阻止持牌保險中介人繼續作出損害他人利益的行為。

本會原則上支持成立獨立的保監局來直接監管保險業的運作，並就保障投保人權益提出以下意見，供當局考慮。

- 委任行業代表作為保監局董事會的成員，須處理潛在利益衝突問題；
- 要求提升新申領保險中介人牌照的資格規定；
- 交待由投保人直接承擔保監局大部分經費的理據；及
- 加強金融監管機構之間合作，以有效監管保險中介活動。

In principle, there was no justification provided in the consultation for making policyholders bear most of the regulatory cost of the IIA.

If, however, it was considered that policyholders should fund the IIA, it was necessary to make clear to the public that the levy to be imposed should be allocated to initiatives of an educational nature - to strengthen the capability of policyholders and potential policyholders to understand the many insurance products available on the market.

Practice notes on residential properties

Subsequent to the enactment of the Residential Properties (First-hand Sales) Ordinance (the Ordinance) in July 2012, the Transport and Housing Bureau prepared draft Practice Notes to facilitate the implementation of the Ordinance which will come into operation by end of April 2013.

The Council was invited to provide comments on the draft Practice Notes covering sales brochures, price lists, register of transactions, sales arrangements, submission of documents to the Sale of First-hand Residential Properties Authority (SRPA) and the Sales of First-hand Residential Properties Electronic Platform (SRPE). The Council's comments were concerned with:

- status of the Practice Notes should be set at higher operating standards than the minimum requirements under the Ordinance; and
- role of the SRPA should be proactive in carrying out routine compliance check to ensure vendors' compliance and regular review to ensure the continued relevance of the Practice Notes in effectively protecting home buyer interests.

With regard to the specific provisions in the draft Practice Notes, the Council's views were focused on the arrangements relating to revision of sales brochure, price list, register of transactions and suspension of sale, as well as acceptance of deposit prior to the sale.

Additional views were given on issues of great concern to home buyers and the general public, for instance the time of sale which the Council urged that guidance should be given in the Practice Note to discourage vendors from starting sales very late in the evening.

從基本原則來看，諮詢文件並未有提供將大部分監管成本轉嫁由保單持有人承擔的理據。

若最終決定要由保單持有人負起支付保監局經費的話，本會認為，有必要明確地向公眾清楚說明有關安排，而所收取的徵費亦應用於教育工作方面，以加強保單持有人和潛在保單持有人對市場上眾多保險產品的了解能力。

住宅物業實務守則

隨着《一手住宅物業銷售條例》(條例)於二零一二年七月制定，運輸及房屋局草擬了一系列的作業備考為業界提供遵循指引，以便於二零一三年四月底實施該條例。

本會獲邀就草擬作業備考提供意見，涵蓋範疇包括：售樓說明書、價單、成交紀錄冊、銷售安排、向一手住宅物業銷售監管局(銷售監管局)及一手住宅物業銷售資訊網(銷售資訊網)呈交文件的安排。在整體方面，本會提出以下意見：

- 作業備考的定位不應只限於法例所訂出的最基本或最低要求，而應設置較高行為標準。
- 銷售監管局應採取主動，就發展商的銷售活動進行恆常合規巡查工作，並須定期檢討作業備考，以確保有關作業備考能適當地有效保障置業人士的權益。

關於草擬作業備考的具體規定，本會主要就發展商在修改售樓說明書、價單和成交紀錄冊，暫停銷售，以及開售前收取訂金的安排方面提出意見。

此外，本會亦就一些置業人士和公眾非常關注的事宜提供了一些建議，譬如：本會建議作業備考應加入有關樓盤開售時間的指引，訂明發展商不應於深夜時間進行樓盤銷售活動。

Supply, marketing and labelling of infant formula

After years of discussion, the Government released its draft Hong Kong Code of Marketing and Quality of Formula Milk and Related Products, and Food Products for Infants & Young Children (Hong Kong Code) in October 2012 for public consultation.

The Council supported the Hong Kong Code which is based on the World Health Organisation's International Code of Marketing of Breast-milk Substitutes, subsequent relevant World Health Assembly resolutions, and was drawn up by a Taskforce of the Department of Health (which the Council participated) taking into account the local situation.

However, the Council was concerned that the Hong Kong Code would only be implemented in the form of voluntary guidelines in tandem with a monitoring mechanism on un-named basis. The Council doubted whether such measures could deal effectively with cases of non-compliance. The Council was of the view that compliance with the Hong Kong Code should be mandated by legislation.

For effective regulation of formula milk and food products for infants and young children in Hong Kong, the Council recommended that the prohibition of promotion should be extended to cover not only formula milk and formula milk related products up to three years old but also other food products for infants and young children in Hong Kong.

The Council also considered that it would benefit both the industry and consumers if the Government could make accessible to the public information on health claims purportedly scientifically substantiated. Moreover, the Government is urged to consider whether the industry would be required to submit their health claims to the Government for comment or approval prior to making and/or labelling them in relation to the products introduced into the Hong Kong market.

Equally crucial, the Council was of the view that the Government should strengthen the support for breastfeeding in the community by establishing cross-departmental taskforce and increase public access on breastfeeding materials through various media.

The Council also submitted views on the legislative proposals in relation to nutrition labelling of formula products and foods intended for infants and young children under the age of 36 months.

嬰幼兒奶粉的供應、銷售和標籤

經多年討論，政府於二零一二年十月發表《香港配方奶及相關產品和嬰幼兒食品的銷售及品質守則》(守則) 草擬本，並進行公眾諮詢。

本會支持由衛生署屬下專責小組(本會亦有參與)根據世界衛生組織《國際母乳代用品銷售守則》、其後的相關決議、以及本地嬰幼兒餵哺情況而制定的守則。

然而本會關注守則乃自願性質及以不記名方式進行監察，本會就守則能否有效處理違規情況存有疑問，認為守則應以立法方式強制執行方為有效。

另外，為有效監管配方奶及相關產品，本會建議政府應將禁止推廣宣傳的產品範圍由36個月以下的配方奶及配方奶相關產品伸延至包括其他嬰幼兒食品。

為業界和消費者利益，本會亦認為政府應就那些具科學根據的健康聲稱提供公開資訊。本會亦希望政府能考慮就業界的健康聲稱作出事前審批。

事實上，本會認為政府應成立跨部門工作小組以加強社區對母乳餵哺的支持同樣重要。小組應探討透過不同渠道宣揚母乳餵哺，以提升公眾對母乳餵哺的意識。

本會亦就供36個月以下嬰幼兒食用的配方奶產品和食品的營養標籤立法建議提供意見。

Under the Government legislative proposals, nutritional composition requirement would be imposed on infant formula only. For the healthy growth and development of local infants and young children, the Council suggested that Codex nutritional composition requirements on follow-up formula and foods intended for infants and young children under the age of 36 months should also be followed. The Council also suggested imposing mandatory nutrition labelling requirement of sodium in all foods intended for infants and young children under the age of 36 months.

The Council expressed disappointment that the Government is postponing regulation on product claims to a later stage. The Council urged the government to take prompt measures to prohibit exaggerated and misleading claims made by formula product and food suppliers. The Council also urged for the implementation process to be expedited so that consumers and parents do not need to wait for years before the mandatory labelling and composition requirements come into effect.

In view of continued short supply of formula products in the market, the Council welcomed the Government's new measures in export regulations of formula products. The Council would continue its work in monitoring the price and supply of formula products and in working with stakeholders to ensure that local consumers' interests are well protected.

Advocacy on competition law and policy

The Council welcomes passing the Competition Law in the Legislative Council in July 2012 a new milestone for the Council which had been advocating to protect market competition as an indirect way to safeguard consumer interests since 1993.

The Council believes the enactment of the competition law facilitating market competition will prohibit anti-competitive practices and enhance fairer access to markets in different sectors and businesses. With market competition come cheaper prices, more choices, higher quality goods and better services, and consumers stand to benefit.

With an enforcement agency in place to regulate against anti-competitive conducts of conglomerates with big market share or abuse of market power, it can bring about a fair market environment and foster competition, thereby forestalling aggravation of monopolisation in the market.

根據政府建議，只有嬰兒配方奶須引入食品法典委員會訂明的營養成分組合規定。本會認為，為本地嬰兒和幼童的健康成長和發展，36個月以下嬰幼兒食用的較大嬰兒配方奶亦應引入食品法典委員會訂明的營養成分組合規定。本會亦認為供36個月以下嬰幼兒食用的食品，應強制加上鈉含量標籤。

本會就政府建議稍後時間才處理有關聲稱的規管事宜表示失望。本會認為政府應儘快採取措施防止誇大、甚至是誤導的聲稱，本會亦認為有關配方奶產品和食品的立法建議應儘快實行，不應讓消費者和家長等候經年。

就配方奶產品供應連年短缺的問題，本會歡迎政府在配方奶產品出口條例所採取的新措施。本會亦會繼續監察配方奶產品的價格和供應情況，與各持份者合作，以保障本地消費者的權益。

倡導競爭法和競爭政策

本會自一九九三年以來一直倡導保障市場競爭的《競爭法》法例，用意間接保障消費者利益，本會歡迎法例在二零一二年七月立法會會議上通過，樹立保障市場競爭的里程碑。

本會認為設定競爭法會能促進市場競爭，禁止反競爭行為，增加不同行業和企業公平進入市場的機會。隨着市場競爭帶來更便宜的價格，更多的選擇，更高質量的產品和更好的服務，消費者會從中受惠。

執法機構打擊市場份額大的企業集團反競爭行為或濫用市場權勢，可以營造一個公平的市場環境，促進競爭，從而防範市場加劇壟斷。

In regard to exemptions given to statutory bodies and limit scope of merger regulation, the Council is of the view that the Government will review the exemption arrangements and merger provision taking into account market development and enforcement experience after the implementation of the law.

The Council's Chief Executive is member of the Government's Competition Policy Advisory Group offering advice in respect to competition concerns on public policy from the perspective of consumer welfare including cases:

- Alleged anti-competitive conduct of a trade association of the medical profession
- Alleged anti-competitive conduct of some supermarket chains and retail chain stores

Developments in electricity market

The Council is planning to study on the development of electricity market in Hong Kong. With respect to the interim review of the Scheme of Control Agreement of the two power companies in the beginning of 2013, the Council takes the opportunity to urge the Government to seek more information transparency from power companies. By avoiding any excess investment and improving efficiency of the power supply system, the Council views that the Government should take a proactive role monitoring the estimation of the future demand of electricity in the next five years.

The Council opines that given the rising cost of fuel it becomes more necessary for the power companies to provide sufficient information on the benchmark of fuel prices in the international market that they use, to enable customers to monitor the trend of fuel costs. It is necessary also for the Government and the power companies to encourage consumers on energy saving through a well-implemented demand management policy and a fair system should be in place so that residential users would benefit equally from the cost saving resulting from the demand management policy in electricity supply.

The Council is of the view that despite the financial incentive provided under the Scheme of Control Agreements for the two power companies to have more development of renewable energy, there has been very little progress in adopting renewable energy between 2008 and 2013. Despite the technical issue and the cost effectiveness issue of introducing renewable energy, the Council supports the Government in urging the two power companies to take up more social obligation by devoting their efforts on exploring the future development and application of

關於豁免法定機構和規管合併的應用行業範圍，本會認為，政府可在競爭法實施後，考慮到市場的發展和執法經驗，檢討豁免安排和合併的規管法律條文。

本會的總幹事是政府的競爭政策諮詢小組的成員，會從消費者利益的角度就公共政策的競爭問題提供意見，包括：

- 醫學界的行業協會的涉嫌反競爭行為；
- 一些連鎖超市及零售連鎖店的涉嫌反競爭行為

在電力市場中的發展

本會計劃研究香港電力市場的未來發展。適逢兩間電力公司在二零一三年進行利潤管制協議的中期檢討，本會藉此機會敦促政府和電力公司，增加資訊的透明度。本會希望政府採取積極主動的態度，監控未來五年的電力需求，避免電力公司作任何不必要的投資，和應致力提高供電系統的效率。

本會認為，基於燃料成本的上升，電力公司應提供足夠的信息，以哪個國際市場燃料價格為基準，方便客戶監控燃料成本的趨勢。政府和電力公司也必要通過實施良好的需求管理政策，鼓勵消費者節約能源，並應讓住宅用戶在公平的制度下，分享因節能造成電力供應的成本節約的成果。

本會認為，儘管政府已在二零零八年和二零一三年之間就兩間電力公司的利潤管制計劃協議規定上加入財政獎勵，鼓勵開發可再生能源，但進展一直有限。雖然引入可再生能源的技術的問題和成本效益的問題有待完善解決，本會支持政府要求兩間電力公司承擔更大的社會責任，努力和積極探索未來可再生能源的開發和應用，承諾會在未來為香港消費者提供清潔能源的選擇。

renewable energy and providing more information about their commitments to provide Hong Kong consumers with a choice of cleaner energy in future.

The Council fully supports the Government in contemplating introduction of competition to the electricity market as early as 2018 and should take the opportunity of the interim review of the Scheme of Control Agreement to require the two power companies to publish a comprehensive range of performance and financial data for public scrutiny. Full disclosure by way of separate account reporting by different segments could enhance transparency and provide the necessary information for formulating the possible market reform of the electricity sector beyond 2018.

Government grant and relaxation of financial assessment criteria for Samaritan Fund (SF)

The Council welcomed the Government's proposal to provide a \$10 billion grant to the Samaritan Fund (SF) to maintain the operation of SF and to enable it to meet increased expenditure. The Council also welcomed the Hospital Authority's (HA) proposals of relaxing the eligibility criteria of SF to benefit more needy patients. The Council, however, had concerns that SF might be used as a justification by HA for excluding drugs proven to be of significant benefits but extremely expensive to provide in the Drug Formulary (DF). The Council suggested that HA should increase transparency by providing reasons for not including certain new drugs in the DF. The Council also suggested that there should be avenues open for suggestions to be made by interested individuals to bring new drugs to the attention of the Drug Utilisation Review Committee for consideration. On the issue of safety net and financial assessment criteria, the Council held the view that HA should collect patient opinions with regard to access to drugs and affordability on a continuous and systematic basis, and suggested that regular review be conducted on criteria for assessing a patient's affordability.

Responses to consultation papers

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

本會全力支持政府考慮在二零一八年後在電力市場引入競爭。本會期望政府藉此中期檢討，要求兩間電力公司全面披露有關營運表現和財務狀況數據讓公眾監察。按供電供應鏈的營運種類（如造電，配電和零售）分別入賬，和在公開的財務報告披露有關賬目，提高透明度，為制定超越二零一八年的電力行業的改革討論提供必要的信息。

撥款撒瑪利亞基金及放寬經濟審查評估準則

本會歡迎政府向撒瑪利亞基金（基金）撥款100億元的建議，以維持基金運作，以及醫院管理局（醫管局）放寬基金的藥物資助經濟審查評估準則的建議，以協助更多有需要的病人。然而，本會憂慮醫管局會以基金為理由，將一些極昂貴但有重大療效的藥物撇除於醫管局的藥物名冊內。本會建議醫管局應就新藥物不被納入藥物名冊內的理由提高透明度，本會亦建議醫管局應公開渠道，令有興趣人士能向醫管局藥物建議委員會建議新的藥物。就安全網及經濟審查評估準則方面，本會建議醫管局應定期及有系統地就能否方便購買和病人的負擔能力搜集意見。本會亦建議當局應定期審視評估病人負擔能力的準則。

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。