

Draft Enforcement Guidelines for the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012

Public Consultation Report

Introduction

1. The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (“Amendment Ordinance”) was enacted by the Legislative Council on 17 July 2012. The Amendment Ordinance extends the coverage of the Trade Descriptions Ordinance (Cap. 362) so as to prohibit specified unfair trade practices in the market, including false trade descriptions of services, misleading omissions, aggressive commercial practices, bait-and-switch, bait advertising and wrongly accepting payment.
2. From 7 December 2012 to 17 March 2013, the Customs and Excise Department (“C&ED”) and the Office of the Communications Authority (“OFCA”) conducted a public consultation to solicit views and comments from the stakeholders and the public on the draft Enforcement Guidelines concerning the Amendment Ordinance. The draft Enforcement Guidelines comprise the “Compliance and Enforcement Policy Statement” and the “General Guidelines”, set out the manner in which the enforcement agencies will exercise their powers as conferred upon by the Amendment Ordinance and provide guidance on the operation of the new provisions.

Consultation Process

3. During the consultation period, a total of 17 forums were conducted. The enforcement agencies have received 27 written submissions by way of fax, mail, email and through the Public Affairs Forum of Home Affairs Bureau. The respondents include members of the public, traders, commerce and trade associations, and professional bodies. These submissions are attached at **Annex I**.
4. In the light of the views and comments gathered from the consultation, the Enforcement Agencies have revised the draft Enforcement

Guidelines accordingly. The major views and concerns raised in the consultation, together with the Enforcement Agencies' responses thereto are summarized and attached at **Annex II**.

5. The finalized Enforcement Guidelines have been published on 15 July 2013 and can be downloaded from the websites of Customs and Excise Department at www.customs.gov.hk; Communications Authority at www.comms-auth.hk; and Consumer Council at www.consumer.org.hk

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The Commissioner of Customs and Excise
Communications Authority