

Circular 10: The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 <IMPORTANT>

In response to strong public demands for enhancing protection of consumers against other commonly seen unfair trade practices in consumer transactions, the Hong Kong Special Administrative Region has completed a review of the existing consumer protection legislation and proposed improvements through amendments to the Trade Descriptions Ordinance. The Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Amendment Ordinance) was eventually passed on 17 July 2012 by the Legislative Council and its key changes include:

- the expansion of the definition of “trade description” in respect of goods to mean any indication, direct or indirect, and by whatever means given, with respect to any goods or parts of goods such as price indication;
- the extension of the coverage of the Ordinance to prohibit false trade descriptions in respect of services made in consumer transactions, and to define “services” under any consumer contract;
- the creation of new offences on such practices as misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment; and
- an introduction of a civil compliance-based enforcement mechanism in addition to criminal sanctions to promote adherence to the TDO.

The Amendment Ordinance came into operation on 19 July 2013. Exhibitors are reminded to read the Amendment Ordinance in detail to avoid possible offences, in particular the usage of terms in relation to prices and puffery claims (like “sale”, “original price”, “reduced price”, “lowest price”, “best seller” etc), bait advertising etc. For enquiries on the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012, please contact the Customs and Excise Department at (852) 2815 7711 or visit http://www.customs.gov.hk/pda/en/traders/trade_controls/trade_desc/unfair.html.

Hong Kong Trade Development Council

通告 10: 《2012 年商品說明 (不良營商手法) (修訂) 條例》 <重要通知>

為回應公眾的強烈要求加強保障消費者的權益，禁止消費交易中某些常見的不良營商手法，香港特別行政區已仔細檢討現時的保障消費者條例，並透過修訂《商品說明條例》以落實改善措施。《2012 年商品說明 (不良營商手法) (修訂) 條例》(《修訂條例》)已於 2012 年 7 月 17 日獲得立法會通過。《修訂條例》主要有以下內容:

- 擴大有關貨品的“商品說明”的現有定義，指以任何方式就任何貨品或貨品任何部分作出直接或間接的顯示，例如標價；
- 擴大“條例”的適用範圍，禁止在消費服務交易中作出虛假商品說明，並界定“服務”一詞在消費合約中的法律定義；
- 增加新的罪行，禁止在營業行為中某些不良營商手法如：誤導性遺漏、具威嚇性的營業行為、餌誘式廣告宣傳、先誘後轉銷售行為及不當地接受付款；及
- 在刑事懲處外，設立遵從為本的民事執法機制，鼓勵企業遵守條例。

《修訂條例》已於 2013 年 7 月 19 日全面執行。請參展商詳細閱讀及了解相關《修訂條例》的內容，以免觸犯法例，特別是有關價格詞語或吹捧聲稱（如「特價」、「原價」、「減價」、「最抵價」、「最暢銷」等）的使用、餌誘式廣告宣傳等。如對《2012 年商品說明 (不良營商手法) (修訂) 條例》有任何查詢，請致電香港海關 (852) 2815 7711 或瀏覽網頁：http://www.customs.gov.hk/pda/en/traders/trade_controls/trade_desc/unfair.html。

香港貿易發展局