

LCQ15: Handling online shopping complaints and disputes

Following is a question by the Hon Vincent Cheng and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (April 28):

Question:

The Consumer Council (the Council) reached a collaboration agreement with the China Consumers' Association (CCA) in November 2019 to expedite the handling of cross-boundary consumer complaints by the "Online Shopping Consumer Protection Express Platform" scheme under CCA. Under the scheme, upon receipt of cross-boundary consumer complaints involving the online traders participating in the scheme, the Council will, provided that the conditions prescribed by the scheme are met, upload the details of such complaints to the data system of the Platform to allow the online traders concerned to handle the complaints by directly contacting the complainants. The objective of the scheme is to assist consumers through a more effective channel and increase their success rate in reaching conciliation with the online traders concerned. Regarding the handling of online shopping complaints and disputes, will the Government inform this Council:

(1) whether it knows the total number of complaints lodged by Hong Kong people and handled through the Platform since November 2019 and, among such complaints,

(a) the number of those in respect of which conciliation has been reached, with a tabulated breakdown by (i) type of complaints, (ii) the amount of money involved, and (iii) the solution agreed by both parties;

(b) the number of those in respect of which conciliation has not been reached, with a tabulated breakdown by (i) type of complaints, (ii) the amount of money involved, and (iii) the outcome/progress of the follow-up actions taken by the Council;

(2) whether it knows if the Council has assessed the effectiveness of the aforesaid Platform in assisting in resolving relevant disputes; and

(3) given that quite a number of members of the public in Hong Kong frequently shop online, how the Government, by enforcing the relevant legislation such as the Trade Descriptions Ordinance (Cap. 362) and the Sales of Goods Ordinance (Cap. 26), effectively handles acts of selling goods which do not match the descriptions or counterfeit goods and fraudulent acts relating to online shopping (especially cross-boundary online shopping)?

Reply:

President,

Having consulted the Consumer Council (the Council) and the Customs and Excise Department (C&ED), my reply to the question raised by the Hon Vincent Cheng is as follows:

On the first and second parts of the question, the Council was established in accordance with the Consumer Council Ordinance (Cap. 216), the statutory functions of which include receiving and examining complaints by and giving advice to consumers of goods and services. If the complaint is under the jurisdiction of individual government departments or professional associations, the consumer may lodge his/her complaint with the relevant departments/organisations. If the complaint involves traders outside Hong Kong, the consumer may need to take the issue directly with the relevant local authorities.

Nonetheless, in view of the rapid development of cross-boundary e-commerce in recent years, the Council reached an agreement with the China Consumers' Association (CCA) in November 2019, to strengthen the support to Hong Kong consumers by joining the "Online Shopping Consumer Protection Express Platform" (the Platform) scheme established by the CCA. Under the Platform scheme, if a consumer has a dispute with a participating online trader and seeks assistance from the Council, as long as the conditions prescribed by the scheme are met (i.e. the complaint is between an individual consumer and a trader, the trader under complaint is among the designated online traders of the Platform, and the complainant has given his/her consent to have the case referred to the Platform for processing), the Council will upload the details of the complaint to the data system of the Platform. After that, the participating online trader can directly obtain from the system the details of the relevant complaint and directly contact the complainant to handle the complaint. The Platform will record the follow-up progress and result of the case. The Council can also access the Platform to learn the progress and record the relevant result after the case is closed.

The number and details of the cases referred to the Platform by the Council between November 2019 and March 2021 are as follows:

| Year | 2019 (November-December) | 2020 | 2021 (January-March) |
|----------------------------------|-----------------------------|------------------------|-------------------------|
| Number of cases | 0 | 1 | 1 |
| Product type | – | Personal care products | Toys |
| Nature of the complaint | – | Product quality | Late delivery |
| Amount involved (in Renminbi) | – | 40,000 | 5,280 |

| | | | |
|-----------------|---|---|--------------------------------------|
| Result/Progress | - | Given that the products had been unsealed and used by the complainant, the trader refused the return of the products. No settlement was reached by the parties. | The case is still being followed up. |
|-----------------|---|---|--------------------------------------|

There are a total of 25 designated online traders on the Platform. However, only two to three of them are more familiar to and frequently used by consumers in Hong Kong. As some of these online traders also have offices in Hong Kong, depending on the transaction details provided by the complainants and whether they agree to give consent to have the complaints referred to the Platform, the Council can handle such cases in accordance with its established mechanism and contact the offices of these traders in Hong Kong directly for follow-up, without the need to route them through the Platform for processing. In parallel, the Council will continue to monitor the effectiveness of the Platform in assisting the resolution of online shopping complaints and disputes.

On the third part of the question, the rights of consumers, including online shoppers, are currently protected by various laws in Hong Kong. The Sale of Goods Ordinance (Cap. 26), the Control of Exemption Clauses Ordinance (Cap. 71), the Supply of Services (Implied Terms) Ordinance (Cap. 457) and the Unconscionable Contracts Ordinance (Cap. 458) all regulate contracts related to transactions, for example, by stipulating implied conditions in the contract of sale of goods, including that the goods supplied are of merchantable quality and that a buyer has the right to reject defective goods unless he or she has a reasonable opportunity to examine the goods; a supplier of a service is obliged to carry out the service with reasonable care and skill and within a reasonable time; and the courts are empowered to refuse to enforce, or to revise unconscionable terms in consumer contracts for the sale of goods or supply of services, etc.

In addition, the Trade Descriptions Ordinance (Cap. 362) prohibits unfair trade practices such as "false trade descriptions" (including a false trade description made by whatever means and in whatever form, e.g. paper, verbal and advertisement) and "misleading omissions" (including omitting or hiding material information, or providing material information in a manner that is unclear, unintelligible, ambiguous or untimely), and is applicable to both online and physical traders.

Unfair trade practices may occur in different sales channels, including online trading platforms. C&ED will continue to monitor different types of illegal online activities by using tools for evidence collection and investigation, and initiate follow-up actions and prosecutions where appropriate. If local or overseas websites are found to be conducting illegal activities, C&ED may demand such websites to remove the relevant contents or links. Depending on the circumstances, joint operations with overseas

enforcement agencies will also be mounted as and when required.

The Government will continue to keep a close watch on the development of online platforms and review the relevant laws as necessary for the protection of consumer rights.