

Third Ad Hoc Expert Meeting on Consumer Protection

Geneva, 22-23 January 2015

Contribution on:

Report on Modalities for the revision of the United Nations Guidelines for Consumer Protection and the Draft Resolution

by

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The views expressed are those of the authors and do not necessarily reflect the views of
UNCTAD

The Hong Kong Consumer Council is in general agreement with the report and the Draft Resolution. However, there is one topic which I would like to raise for participants to discuss, and to clarify Hong Kong's stance which is only briefly noted in the report and does not appear to be raised in any depth in the Draft Resolution. The topic is that concerning funding of consumer advocacy, which I consider to be an extremely important subject for the Guideline to discuss and in which to set obligations.

Footnote 336 of the Report makes the observation:

On the issue of redress mechanisms, most experts agreed on the importance of enabling a good network of consumer associations, with adequate and sustainable level of funding to support their growth

Hong Kong is given as a reference to this observation, and no further information is provided. While the reference to Hong Kong is not incorrect, it only reflects a small part of what the Council submitted.

As noted in the Council's April 2013 submission to UNCTAD on review of the UNGCP, the point was made that funding of consumer advocacy is a perennial matter that is constantly being raised by consumer advocates for good reason. This is because the level of funding that goes towards supporting consumer advocacy work is largely left to an ad hoc approach by different jurisdictions with no systemic approach taken towards

- - how funding levels should be set;
- - where funds should be targeted; and
- - measuring the direct benefits that funding have in empowering consumers and raising economic performance.

This is typically in stark contrast to the approach taken with regard to industry assistance, for example provision of taxation benefits and business incentives, which are seen as positive and quantifiable measures for economic development. The part that consumers play in the economy is typically relegated to secondary status after business. The economic benefits that result from having well informed and well represented consumers, who ensure that markets are fair and competitive and thereby prosper for overall economic benefit, is often ignored and given little if any close scrutiny.

As noted in our submission, the Council considers that some specific principles should be provided in the UNGCP that strongly urge governments to take a more systematic approach towards the funding of consumer protection.

The Council suggests that some consideration be given to placing a requirement in the UNGCP that links consumer funding with those financial incentives and benefits that might exist from time to time in Member economies that are aimed at assisting business.

For example, the following words (in italics) can be considered for insertion into proposed Section 62 of the Draft Resolution.

“Member States should work towards ensuring that consumer protection enforcement authorities have the human and financial resources to take action and obtain or facilitate

redress for consumers, including monetary redress. *The economic benefits that result from having well informed and well represented consumers, who ensure that markets are fair and competitive and thereby prosper for overall economic benefit, should be recognised. The policy of funding mechanisms for assisting consumer protection enforcement should be considered in the same light as policies that provide the range of financial incentives and benefits that are typically aimed at assisting business.* Where appropriate, in seeking such remedies, consumer protection enforcement authorities may be assisted by other enforcement entities, such as private consumer organisations *that should also be eligible for financial assistance.*”

The Council considers that placing an obligation on Member States to consider the economic benefits that arise from assisting consumers in the same way that they consider the benefits that arise from assisting business, will place consumer funding on an equal footing as far as raising economic performance is concerned. Once this is accepted as part of a Member states’ economic policy, it can be expected that the funding of consumer advocacy will improve in terms of the level of financial assistance, and in the recognition it will receive as an important factor in improving economic performance.

We sincerely hope that our recommendation would be seriously considered.