

CHAPTER 3

Commerce and Economic Development Bureau Consumer Council

**Consumer Council: Corporate governance and
protecting and promoting consumer interests**

**Audit Commission
Hong Kong
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This audit review was carried out under a set of guidelines tabled in the Provisional Legislative Council by the Chairman of the Public Accounts Committee on 11 February 1998. The guidelines were agreed between the Public Accounts Committee and the Director of Audit and accepted by the Government of the Hong Kong Special Administrative Region.

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CONSUMER COUNCIL: CORPORATE GOVERNANCE AND PROTECTING AND PROMOTING CONSUMER INTERESTS

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PART 1: INTRODUCTION

1.1 This PART describes the background to the audit and outlines the audit objectives and scope.

Background

1.2 The Government is committed to safeguarding consumer interests. Work in this area is primarily geared towards setting appropriate safety standards for consumer goods, recognising consumers' reasonable expectations in respect of the quality of goods and services and fair contract terms. The Commerce and Economic Development Bureau (CEDB — Note 1) has the overall policy responsibility for consumer protection. The Consumer Council (CC) is responsible for protecting and promoting consumer interests. Enforcement of the legislation governing the safety of consumer goods is largely carried out by the Customs and Excise Department.

The Consumer Council

1.3 The CC was established in April 1974. It was incorporated as a body corporate with the enactment of the CC Ordinance (Cap. 216) in July 1977. As stipulated in the CC Ordinance, the functions of the CC are to protect and promote the interests of consumers of goods and services and purchasers, mortgagors and lessees of immovable property mainly by:

- (a) collecting, receiving and disseminating information concerning goods, services and immovable property;
- (b) receiving and examining complaints by and giving advice to consumers of goods and services and purchasers, mortgagors and lessees of immovable property;
- (c) taking such action as it thinks justified by information in its possession, including tendering advice to the Government or to any public officer; and
- (d) encouraging business and professional associations to establish codes of practice to regulate the activities of their members.

Note 1: *In July 2002, the policy bureau responsible for consumer protection changed from the then Economic Services Bureau to the then Economic Development and Labour Bureau. In July 2007, following the reorganisation of the Government Secretariat, the CEDB took over the policy responsibility.*

1.4 The CC's work ranges from developing new consumer protection initiatives to conducting studies on trade practices and matters affecting consumer interests. It mediates in consumer disputes, disseminates information and advice, and organises consumer education activities. It also tests products, conducts in-depth studies and surveys, publishes a consumer magazine "CHOICE" (Photograph 1), and examines and responds to consultation papers and reports on consumer-related issues. To assist consumers in taking legal action against unscrupulous traders, the Consumer Legal Action Fund (CLAF) was set up in November 1994 with a \$10 million grant from the Government, and with the CC as trustee administering the Fund.

Photograph 1
CHOICE magazine



Source: CC records

1.5 The governing body of the CC is its Council (see also para. 2.2). According to the CC Ordinance, the Council shall appoint a person to hold office as its chief executive (CE). As at 1 April 2008, the CC had an establishment of 137 staff, with 16 officers being deployed to the CC's eight Consumer Advice Centres (CACs) in various districts of the territory (Note 2). An organisation chart of the CC as at 1 April 2008 is shown at Appendix A.

Income and expenditure of the CC

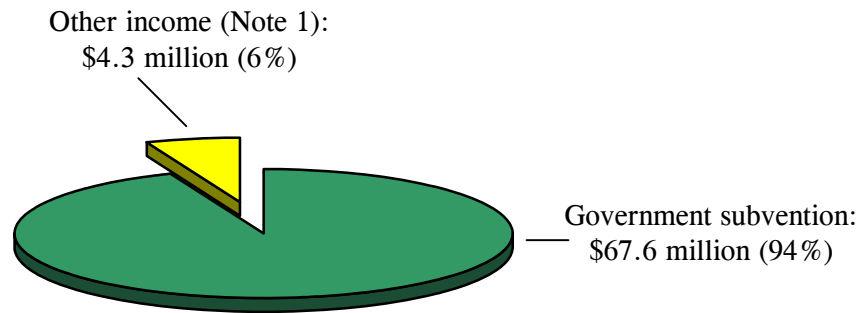
1.6 The CC is funded mainly by recurrent subventions from the Government. The Permanent Secretary for Commerce and Economic Development (Commerce, Industry and Tourism) is the Controlling Officer responsible for the government subventions to the CC. For the financial year 2007-08, the income of the CC was \$71.9 million and its expenditure was \$71.3 million. The government subvention of \$67.6 million accounted for 94% of the CC's income. The CC's staff cost of \$55.5 million accounted for 78% of the CC's expenditure (see Figure 1).

Note 2: *The eight CACs are located in the Central and Western District, North Point, Shamshuipo, Tsimshatsui, Wong Tai Sin, Shatin, Tsuen Wan, and Yuen Long.*

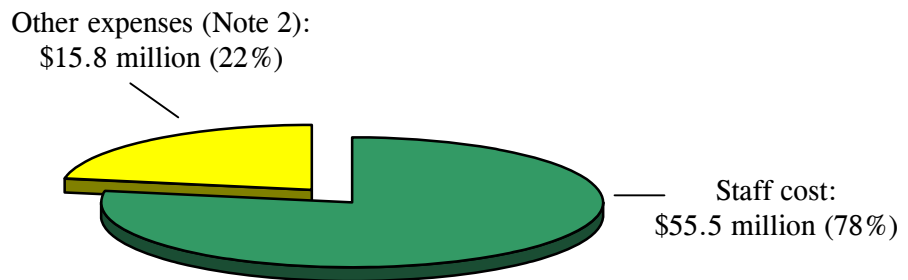
Figure 1

**Income and expenditure of the Consumer Council
(2007-08)**

(A) Income: \$71.9 million



(B) Expenditure: \$71.3 million



Source: CC records

Note 1: Other income included proceeds from the sale of the CHOICE magazine and bank interest.

Note 2: Other expenses included office expenses, testing and research expenses, and production and marketing costs of the CHOICE magazine.

Audit review

1.7 The Audit Commission (Audit) has recently conducted a review of the CC, focusing on the following areas:

- (a) corporate governance (PART 2);
- (b) human resource management (PART 3);
- (c) administrative issues (PART 4);
- (d) protecting and promoting consumer interests (PART 5); and
- (e) performance management (PART 6).

The review has found that there is room for improvement in the above areas, and has made a number of recommendations to address the issues.

General response from the Consumer Council

1.8 The CE, CC has said that a Council meeting was convened on 22 September 2008 to discuss the audit observations and recommendations. On behalf of the Council, she would like to convey to Audit the Council's appreciation of and gratitude for the thorough audit review on the CC, which no doubt will ultimately be beneficial to the consumers. She has also said that:

- (a) being a responsible statutory body, the CC is committed to the principles of transparency and accountability. Regarding its work in advocating consumer protection, the CC demands nothing less than the best possible corporate governance and business practice. It is only natural for, and incumbent upon, the CC itself to make an extra effort in all these areas;
- (b) the CC welcomes the audit review, especially after a long and extended period of rapid expansion in the CC's scope of work. The timing was perfect, as the CC is on the threshold of embarking on new initiatives in a fast changing marketplace. The CC needs fresh insights and to be at its best possible if it is to meet the challenges ahead with success; and
- (c) in light of the audit observations and recommendations, the CC has set up a Special Task Group in late September 2008 to streamline its management organisation and processes. No effort will be spared in this exercise. The CC's priorities will focus on areas critical to achieving its mission.

Acknowledgement

1.9 Audit would like to acknowledge with gratitude the full cooperation of the staff of the CC and the CEDB during the course of the audit review.

PART 2: CORPORATE GOVERNANCE

2.1 This PART examines the corporate governance issues of the CC and notes that there are areas where improvements can be made.

Governance structure of the Consumer Council

2.2 According to the CC Ordinance, the Council shall comprise a Chairman, a Vice-Chairman and not more than 20 other persons. Each of these members shall be appointed by the Chief Executive of the Hong Kong Special Administrative Region (HKSAR — Note 3) for a term not exceeding two years. They may be reappointed upon expiry of their respective terms of office. As at 1 April 2008, the Council comprised 22 members (i.e. a Chairman, a Vice-Chairman and 20 other members) from different sectors of the community.

2.3 The Council is given the authority to exercise the powers conferred upon it by the CC Ordinance. The Council may also appoint Committees and may delegate to them the exercise of its powers and performance of its functions. Eight Committees were established to oversee various aspects of the CC's operations as stipulated in their respective terms of reference (see Appendix B).

Audit observations and recommendations

Quorum of meetings

2.4 The CC Ordinance stipulates that at meetings of the Council, 11 members shall form a quorum. The CC Ordinance does not specify a quorum for Committee meetings. Prior to January 2006, the quorum for Committee meetings was set at half of the total number of serving members. At a Council meeting held in January 2006, it was agreed that the quorum for Committee meetings would be changed to six or half of the total number of serving members, whichever is lower. Audit's examination of the records of proceedings of 36 Council meetings and 178 Committee meetings held in the period 2002 to 2007 revealed that 14 (8%) Committee meetings were held without a quorum.

Note 3: *The authority for the Chief Executive of the HKSAR to appoint the Vice-Chairman and other members of the Council was delegated to the Financial Secretary under section 63(1) of the Interpretation and General Clauses Ordinance (Cap. 1). The authority was further delegated to the then Secretary for Economic Development and Labour in July 2004. The delegated authority was changed to the Secretary for Commerce and Economic Development in July 2007.*

Submission of papers to Council/Committee members

2.5 According to the guidelines issued by the Hong Kong Institute of Certified Public Accountants in 2004 entitled “*Corporate Governance for Public Bodies — A Basic Framework*”, public bodies should ensure that members of the governing board are provided with all the information that they need to properly consider issues to be discussed at a governing board meeting, in good time before the meeting.

2.6 According to the CC’s guidelines, agendas and papers should be dispatched to members at least five working days before the meeting. An audit examination of the CC’s documents for Council/Committee meetings held in 2006-07 and 2007-08 revealed that discussion papers for meetings were sometimes distributed to members at the meetings. Audit found that, in these two years, 12 (12%) of 101 discussion papers for Council meetings, and 69 (20%) of 341 discussion papers for Committee meetings were distributed to the members at the meetings.

2.7 To allow Council/Committee members to have sufficient time to study the papers before a meeting, the CC needs to issue such meeting materials in advance, in accordance with its guidelines.

Reappointment of members with low attendance

2.8 Audit’s examination of the attendance records of Council/Committee meetings of the CC in the period 2002 to 2007 revealed that:

- (a) ***Council meetings.*** The average attendance rate was 71%; and
- (b) ***Committee meetings.*** The average attendance rates ranged from 60% to 91%. For five (63%) of the eight Committees, the average attendance rates were below 70%.

Appendix C shows the attendance rates of Council/Committee meetings in the period 2002 to 2007.

2.9 The Government Secretariat’s guidelines issued in August 1999 (Circular No. 3/99 on Appointment of Members of Advisory and Statutory Bodies) draw attention to the importance of ensuring that only those who are competent and committed to the work of the advisory/statutory bodies are appointed. The guidelines stipulate that bureaux and departments should take into account a number of general principles in appointing members to the advisory and statutory bodies, which include the need for regular evaluation of the performance and commitment of the chairman and members of the bodies, including their attendance records, to facilitate consideration of their suitability for reappointment.

However, Audit's examination revealed three cases in which reappointments were offered to Council members with low attendance at Council/Committee meetings. In these three cases, Audit noted the following:

- (a) ***Attendance before reappointment.*** The attendance rates at Council meetings for the three members concerned (before reappointment) were 17%, 42% and 67%. Their attendance rates for Committee meetings were 30%, 25% and 9%;
- (b) ***Justifications for reappointment.*** In the submissions to the approving authorities for the reappointments, it was stated that the members concerned performed satisfactorily. In all three cases, the approving authorities' attention was not drawn to the members' low attendance at meetings. In two of the three cases, the submissions did not provide any information about the members' attendance; and
- (c) ***Attendance after reappointment.*** In one case, the member concerned declined the offer. For the other two members who accepted the offers, their attendance at Council meetings after the reappointments continued to be low (20% and 25% up to August 2008).

2.10 The overall effectiveness of the governing body of any institution to fulfill its responsibilities (e.g. providing strategic insights and effective monitoring of the performance of the management) is largely dependent on its members' knowledge, experience, competency and most important of all, commitment. The low attendance of some members at Council/Committee meetings is a matter of concern, because without the expertise and experience of certain members, the effectiveness of the Council/Committee might be affected. Furthermore, only through attending meetings can a member participate in voting for making major decisions, and contribute the most by actively taking part in the discussions during the meetings. While recognising that there may be other factors that need to be taken into account in reappointing members to the Council (e.g. personal expertise, experience and integrity), Audit considers that the CEDB needs to give due consideration to the attendance of members at meetings in assessing their suitability for reappointment.

Management of conflicts of interest

2.11 In accordance with section 9 of the CC Ordinance, if a member of the Council or of any Committee has a direct or indirect commercial interest in any matter under discussion at a meeting, being an interest greater than that which he has as a member of the general public, the member shall disclose the nature of the interest at the meeting, and shall not vote on any resolution concerning the matter or be counted for the purpose of establishing the existence of a quorum.

2.12 While the CC requires its senior staff (with salary point above a level equivalent to Master Pay Scale Point 34 in the civil service) to make annual declarations of interests, it only requires Council/Committee members to declare interests when they are first appointed to the Council/Committee. No declarations are required when they are reappointed. Annual declarations are also not required.

2.13 Audit reviewed the declaration of interests forms of the serving Council members in 2008 and found that the forms for two members were received more than a year (17 months and 28 months) after they were appointed. The CC needs to ensure that Council members declare their interests in a timely manner.

Audit recommendations

2.14 **Audit has recommended that the CC should:**

Quorum of meetings

- (a) **ensure that Committee meetings are held only when there is a quorum;**
- (b) **review the decisions made at the 14 Committee meetings where the quorum requirement was not met to see whether remedial actions are needed;**

Submission of papers to Council/Committee members

- (c) **endeavour to distribute papers to members at least five working days before Council/Committee meetings, in accordance with the CC's guidelines;**

Reappointment of members with low attendance

- (d) **keep in view the attendance of members at Council/Committee meetings and issue reminders to those members with low attendance to encourage them to make efforts to attend meetings in future;**

Management of conflicts of interest

- (e) **require Council/Committee members to make declarations of interests when they are appointed or reappointed, and also annually thereafter; and**
- (f) **ensure that Council/Committee members make their declarations of interests in a timely manner.**

2.15 **Audit has also *recommended* that the Secretary for Commerce and Economic Development should ensure that due consideration is given to the attendance of members at Council/Committee meetings in assessing their suitability for reappointment to the Council.**

Response from the Consumer Council

2.16 The CC accepts the audit recommendations. The CE, CC has said that:

Quorum of meetings

- (a) since April 2007, all Council/Committee meetings were held with a quorum. In future, the CC will ensure that meetings will not be held without a quorum;
- (b) if it does happen that a meeting is held without a quorum, remedial measures will be taken;

Submission of papers to Council/Committee members

- (c) normally papers tabled at meetings were those involving:
 - (i) urgent issues which emerged shortly before the scheduled meeting dates. Only a very short lead time was left for preparing the papers before the meeting; and
 - (ii) ongoing issues or cases requiring staff to keep abreast of the latest developments to be incorporated into the papers, in order to provide up-to-date information for members' deliberation;
- (d) due to acute manpower shortage, CC staff had to prepare papers for meetings in addition to their other pressing duties (e.g. overseeing testing projects and handling complaints). Notwithstanding this, once the papers are ready, CC staff would dispatch them at the earliest instance to members before the meetings by fax or e-mail;

Reappointment of members with low attendance

- (e) at the Council meeting held in January 2008, the Council Chairman reminded members to give their support by making themselves available for the scheduled Council/Committee meetings as far as possible;

Management of conflicts of interest

- (f) during the orientation for new Council members, the need to avoid conflicts of interest had been emphasised and members were aware of the need to declare

interests. Occasional updating on their own personal records was provided by members to the Council Secretariat; and

- (g) it has been the practice for both Council members and co-opted members to declare interests at meetings when there is such a need. At the Council meeting held on 22 September 2008, it was agreed that the Special Task Group (see para. 1.8(c)) will follow up the requirement for annual declarations of interests by members.

Response from the Administration

2.17 The **Secretary for Commerce and Economic Development** accepts the audit recommendation. She has said that:

- (a) she is glad that Audit recognises that apart from attendance rates, there are other factors that should be taken into account in considering a member's suitability for reappointment to the Council;
- (b) in the cases quoted (see para. 2.9), the CEDB did give due consideration to the attendance rates of the members concerned. Nonetheless, given the Council's confirmation of the substantive contribution of those involved to the Council's work, the CEDB considered that their continued appointment was appropriate. She regrets that this had not been set out in full in the written submissions to the approving authority; and
- (c) the CEDB will ensure that the attendance rates would in future be specifically mentioned in the written submissions on reappointments.

Management of government subventions to the Consumer Council

2.18 The operation of the CC is mainly funded by recurrent government subventions. The CC is entrusted with a considerable amount of public money. It is the responsibility of the Council of the CC to ensure good management of the subventions received from the Government.

Estimates of income and expenditure and programme of activities

2.19 Under section 15 of the CC Ordinance, the Council shall in each financial year adopt estimates of income and expenditure for the ensuing financial year and, before a date to be appointed by the Secretary for Commerce and Economic Development, send them to

the Chief Executive of the HKSAR for his approval together with a programme of its proposed activities for the ensuing financial year (Note 4).

2.20 The subvention to the CC forms part of the overall government budget. The CC, based on the resources allocated to it as advised by the Government, submits its estimates of income and expenditure to the CEDB (or the then Economic Services Bureau/Economic Development and Labour Bureau before July 2007 — see Note 4) in around October/November each year. The CEDB will then include the subvention to the CC in the Government's draft estimates.

Guidelines on management and control of government subventions

2.21 In September 2004, the Financial Services and the Treasury Bureau issued Financial Circular No. 9/2004 to promulgate the “Guidelines on the management and control of government funding for subvented organisations”. According to the Guidelines, as a matter of good management, the Directors of Bureaux or the relevant Controlling Officers should preferably enter into a Memorandum of Administrative Arrangements (MAA) or a similar instrument with each organisation receiving recurrent funding from the Government under their purview. Such tailor-made instruments should set out the responsibilities of all parties in the delivery and monitoring of government-funded services and capital projects.

Audit observations and recommendations

Need to improve the CC's annual estimates approval process

2.22 Audit reviewed the approval process of the CC's annual estimates and programme of activities for the years 2002-03 to 2008-09. The review found that there was room for improvement in the following areas:

- (a) ***Approval by the Government.*** The 2002-03 estimates were approved by the Government on 31 October 2001 pursuant to section 15 of the CC Ordinance. However, Audit could not find evidence showing that the annual estimates for the years 2003-04 to 2008-09 had been approved by the Government pursuant to the CC Ordinance;

Note 4: *The Chief Executive of the HKSAR's authority to approve the CC's estimates of income and expenditure was delegated to the then Secretary for Economic Services in July 2000. In July 2002, the delegated authority was changed to the then Secretary for Economic Development and Labour. In July 2004, the authority was further delegated to the Permanent Secretary for Economic Development and Labour (Economic Development). In July 2007, the delegated authority was changed to the Permanent Secretary for Commerce and Economic Development (Commerce, Industry and Tourism).*

- (b) ***Adoption by the Council.*** Audit found that the minutes of the relevant Council meetings did not indicate that the annual estimates for 2002-03 to 2008-09 had been adopted by the Council as required by section 15 of the CC Ordinance;
- (c) ***Submission of programmes of activities.*** For the years 2002-03 to 2004-05, the programmes of activities were submitted to the Government, as required by section 15 of the CC Ordinance. However, they were submitted without adoption by the Council (or any of its Committees). Since 2005-06, the CC's programme of activities had not been prepared and submitted to the Government as required by the CC Ordinance; and
- (d) ***Examination by the Staff and Finance Committee (SFC).*** Apart from the estimates for 2008-09, all annual estimates were submitted to the Government before they were examined by the SFC. The SFC examined the annual estimates 10 days to 206 days (i.e. more than six months) after their submission to the Government. In particular, the 2002-03 and 2003-04 estimates were examined by the SFC more than one month after the start of the financial year. In response to Audit's enquiry, the CC explained in September 2008 that at the time when the CC was requested to consider savings in the Enhanced Productivity Programme 2000-01 to 2002-03, the CC had frequent discussions with the policy bureau on the estimates. Therefore, the submissions of estimates to the SFC/Council were delayed, pending discussions with the bureau on the CC's proposed strategies to deliver savings.

Details of the above audit findings are shown at Appendix D.

2.23 Audit considers it important for the Council to adopt the annual estimates as required by the CC Ordinance, before submission to the Government together with the programmes of activities. The Council also needs to ensure that the annual estimates are based on the programmes of activities it has approved.

2.24 As the policy bureau accountable for the subvention to the CC, the CEDB needs to ensure that the statutory requirements in respect of the budget approval process are complied with.

Need to consider the establishment of an MAA

2.25 Audit noted that the Government had not entered into any tailor-made instrument (such as an MAA) with the CC for exercising funding control (see para. 2.21). The audit findings in paragraphs 2.22 to 2.24 show that there were deficiencies in the approval process for the CC's annual estimates and programme of activities. Audit considers that the CEDB should consider establishing an MAA or a similar instrument, with a view to improving the management and control of government funding for the CC.

Audit recommendations

2.26 **Audit has recommended that the CC should, in respect of each financial year:**

- (a) **submit to the Council for adoption a programme of activities and estimates of income and expenditure for the ensuing financial year; and**
- (b) **submit the adopted estimates of income and expenditure to the Government for approval together with the programme of activities, as required under section 15 of the CC Ordinance.**

2.27 **Audit has also recommended that the Secretary for Commerce and Economic Development should:**

- (a) **ensure that the estimates of income and expenditure of the CC are properly approved in accordance with section 15 of the CC Ordinance; and**
- (b) **consider the need for the Government to enter into an MAA (or similar instrument) with the CC, setting out the responsibilities of all parties in the delivery and monitoring of government-funded services.**

Response from the Consumer Council

2.28 The CC accepts the audit recommendations. The CE, CC has said that:

- (a) the CC will ensure that in future the discussion of the annual estimates will be included in the agenda of Council meetings, and the adoption of the estimates will be formally documented in the minutes;
- (b) prior to 2005-06, the CC had submitted each year a programme of activities to the policy bureau. Since 2005-06, details of the CC's programmes of activities have been included in the Controlling Officer's Report (COR) and therefore the policy bureau is well informed of the CC's activities; and
- (c) the CC had taken immediate action to discuss and endorse the estimates together with the programme of activities at its Council meeting on 8 September 2008. The CC will discuss with the CEDB on the need for a separate submission of the programme of activities.

Response from the Administration

2.29 The **Secretary for Commerce and Economic Development** accepts the audit recommendations. She has said that:

- (a) as stated in Appendix D, the CC's estimates and programmes of activities in the years quoted were examined by the Administration in the context of the Bureau's Draft Estimates and COR. Nonetheless, the CEDB has rectified the matter in accordance with section 15 of the CC Ordinance, and has requested the CC to submit its estimates and programmes of activities before the appointed date in future; and
- (b) the CEDB will also examine with the CC the suggestion of entering into a written instrument setting out the arrangements on the preparation of the CC's estimates, programmes of activities, etc.

Strategic management

2.30 Effective strategic management is an important element of good corporate governance. It is vital to an organisation in meeting the challenges of a changing environment and new demands. An organisation needs to review its position and direction regularly, and develop a strategic plan for establishing what it intends to achieve over a period of time.

CC's strategic planning

2.31 ***First 3-year Strategic Plan.*** At a Council meeting held in September 2003, the CE reported that a Strategic Plan 2003-2006 was drawn up for the following three years from 2003-04 to 2005-06. The Strategic Plan covered an analysis of the macro environment under which the CC was operating, the CC's mission, the strategic focus and the strategic objectives in the following three years. The Council endorsed the Strategic Plan at the meeting.

2.32 ***Second 3-year Strategic Plan.*** At its meeting held in November 2005, the Council was informed that a consultant had been commissioned to assist the CC in developing the CC's Strategic Plan for the three years 2006-07 to 2008-09. However, at the Council meeting held in July 2006, the consultant presented a new Strategic Plan for 2007-08 to 2009-10 to the Council. Main points of the presentation included the outcome of a stakeholder opinion survey, an analysis of the macro environment under which the CC was operating, a SWOT (strengths, weaknesses, opportunities and threats) analysis and the objectives to be achieved. At the meeting, the objectives to be achieved by the CC in the three years 2007-08 to 2009-10 were endorsed as the CC's Strategic Plan 2007-2010. At a Council meeting held in May 2007, the CC tabled an augmented version of the Strategic Plan 2007-2010 which provided an account of the tasks to be performed for achieving the strategic objectives and the related performance indicators.

Audit observations and recommendations

Need to improve the strategic planning process

2.33 Audit noted that the planning period covered by the CC's Strategic Plan was three years. The CC prepared a new Strategic Plan for the following three years after the lapse of the previous Strategic Plan. Furthermore, as there was a delay in finalising the CC's second Strategic Plan, the year 2006-07 was neither covered by the Strategic Plan 2003-2006 nor the Strategic Plan 2007-2010. Audit considers that the CC should ensure that the Strategic Plan is prepared in a timely manner.

2.34 In recent years, there have been major developments in the consumer protection regime in Hong Kong. For example, in May 2008, the Government launched a 3-month public consultation on government proposals for a new competition law in Hong Kong. To provide for the effective enforcement of the new competition law, the Government proposed the establishment of a new, independent authority, the Competition Commission. As a key player in protecting and promoting consumer interests, the CC may need to address the new developments in its Strategic Plan.

2.35 To provide effective strategic direction for future development, it is necessary for the CC to regularly review and update the current Strategic Plan within the 3-year planning period. The CC may consider changing its Strategic Plan to a 3-year rolling plan which is reviewed on an annual basis.

Need to prepare an annual business plan

2.36 Audit noted that while the CC had a 3-year Strategic Plan, it did not prepare an annual business plan for implementing its strategic objectives. In line with good planning practices, Audit considers that the CC should consider drawing up an annual business plan to ensure that the Strategic Plan is effectively translated into operational plans and budgets to meet the strategic objectives. The annual business plan should also include a review of the previous year's performance and an outlook for the coming year.

Audit recommendations

2.37 **Audit has recommended that the CC should:**

- (a) **improve the strategic planning process by conducting regular reviews and revisions of the Strategic Plan within the 3-year planning period (e.g. changing the Strategic Plan to a 3-year rolling plan which is reviewed on an annual basis); and**

- (b) **draw up an annual business plan to ensure that the Strategic Plan is effectively translated into operational plans and budgets to meet the strategic objectives.**

Response from the Consumer Council

2.38 The CC accepts the audit recommendations. The CE, CC has said that:

- (a) as the formulation of a 3-year Strategic Plan was a complicated process involving lengthy discussions, preparing the Strategic Plan 2007-2010 had taken longer time than originally expected (see para. 2.33);
- (b) the CC's tasks concerning the competition law were already set out in the Strategic Plan. Taking into account the audit recommendations, the CC will propose additional indicators that can address current developments, and seek the Council's endorsement of such additions; and
- (c) the CC will incorporate the preparation of an annual business plan into the annual budget planning exercise. Both the business plan and the budget will be submitted to the SFC/Council for endorsement.

PART 3: HUMAN RESOURCE MANAGEMENT

3.1 This PART examines the human resource management practices of the CC and reports the areas where there is room for improvement.

Staff remuneration

3.2 According to the CC, all present ranks in the CC are pegged to corresponding ranks in the Civil Service. The Memorandum on Consumer Council Service Regulations (CCSR) stipulates that appointment of the CE should be approved by the Council in consultation with the Government in accordance with the provisions of the CC Ordinance. All other appointments are approved by the CE, who consults the SFC in respect of appointees who are remunerated on pay scales equivalent to the Civil Service's Master Pay Scale Point 34 or above.

Review reports on senior staff remuneration packages

3.3 In a Circular Memorandum issued by the Director of Administration on 28 March 2003, the Government promulgated a new set of guidelines for the effective control and monitoring of the ranking, structure and remunerations of the top three-tier executives in subvented bodies. According to the guidelines:

- (a) subvented bodies which receive more than 50% of their operating income from the Government should review the number, ranking and remunerations of their senior staff and submit to their responsible Directors of Bureaux annual reports on the review findings. The relevant Directors of Bureaux may, with justifications, approve individual bodies under their purview to submit biennial or triennial review reports;
- (b) each subvented body's review report should set out the up-to-date position in respect of the number, ranking and remuneration packages of staff at the top three tiers, and also explain and justify any changes over the report period; and
- (c) to enhance transparency, the Director of Bureau will work out with those subvented bodies under his/her purview suitable arrangements for public disclosure of their regular review reports.

Audit observations and recommendations

Submission of review reports

3.4 To comply with the above-mentioned guidelines, subvented bodies (including the CC) need to submit annual review reports to the Government. In November 2002,

during the drafting stage of the new guidelines, the CC raised its concern to the then Economic Development and Labour Bureau over the need for the CC to review and justify the remuneration packages of its senior staff on an annual basis. The CC considered it more appropriate for a review to be carried out once every three or five years. However, the Bureau had not given approval for the CC to submit biennial or triennial review reports (see para. 3.3(a)).

3.5 Audit noted that the CC submitted its review reports for the years 2003-04 to 2005-06 in May each year following the close of the respective financial years. However, during the audit review, Audit noted that the CC had not submitted the annual review reports for 2006-07 and 2007-08. Subsequent to Audit's enquiry, the CC submitted the two review reports to the CEDB on 19 August 2008. Audit considers that it is important that the government guidelines promulgated in March 2003 are complied with on a timely basis.

Public disclosure of review reports

3.6 In November 2003, the then Economic Development and Labour Bureau advised the CC to include the review report in its annual report as an annex. In December 2003, the CC expressed its reservations on the public disclosure of its review report. In May 2004, when submitting its first review report for 2003-04, the CC reiterated its reservations on the public disclosure of its remuneration information. Up to July 2008, the question about public disclosure of the CC's regular review reports had not been sorted out between the CEDB and the CC. The CC needs to resolve this matter as soon as possible.

Audit recommendations

3.7 **Audit has recommended that the CC should:**

- (a) **submit annual review reports on senior staff remuneration packages on a timely basis in accordance with the government guidelines promulgated in March 2003; and**
- (b) **work out with the CEDB suitable arrangements for public disclosure of the review reports, in order to enhance transparency and public accountability.**

Response from the Consumer Council

3.8 The CC accepts the audit recommendations. The CE, CC has said that:

- (a) the CC will take immediate action to implement the audit recommendations;
- (b) the CC will work out with the CEDB a timetable for submitting annual review reports in the future;

- (c) as the remuneration of the staff of the CC is pegged to the corresponding ranks in the Civil Service, there have been no major changes in the past years; and
- (d) to enhance transparency, the CC has already disclosed the remuneration packages of staff at the top three tiers in the CC's annual report for 2007-08 with the endorsement of the Council on 8 September 2008.

Staff recruitment

3.9 The CC has issued a set of General Guidelines on Recruitment Exercises (Recruitment Guidelines) which is supplemented by a set of Notes on Recruitment Procedures (Recruitment Notes) to provide guidance to CC staff in conducting recruitment exercises.

Audit observations and recommendations

3.10 In 2007-08, the CC conducted 13 recruitment exercises. Audit selected 7 recruitment exercises for examination and found that there was room for improvement in the following areas:

- (a) ***Documentation of recruitment exercises.*** Some of the important information of the CC's recruitment exercises was not properly documented. For example:
 - (i) the Recruitment Notes stipulate that an officer of at least two ranks above the rank of the vacant post is responsible for screening, shortlisting, proposing questions for the written test and evaluating the written test papers. However, in three (43%) of the seven exercises reviewed by Audit, it was not known whether the above was complied with because the officers responsible for these tasks could not be identified from the relevant records; and
 - (ii) the Recruitment Notes stipulate that shortlisted applicants are invited to take a written test. The shortlisting criteria for candidates to attend the written test and the evaluation result of the test papers were also not documented. In response to Audit's enquiry, the CC said in September 2008 that candidates were shortlisted for written test according to the criteria as advertised, i.e. if they met the basic academic requirements in the relevant fields and possessed relevant experience.

To ensure fairness and transparency, Audit considers that it is good management practice to maintain proper records of a recruitment exercise;

- (b) ***Composition of the recruitment board.*** The Recruitment Guidelines stipulate that the recruitment board for vacancies on permanent establishment and temporary posts should consist of three members and two members respectively. The Chairman should be at least two ranks and the other members one rank above the rank of the vacant post. The Recruitment Notes (see para. 3.9), on the other hand, stipulate that the recruitment board normally comprises at least two members, both being at least two ranks above the rank of the vacant post. In the seven recruitment exercises reviewed by Audit, four recruitment boards comprised a chairman and one member, and the other three boards comprised a chairman and two members. (All the interviewers were at least two ranks above the vacant posts.) Audit considers that the Recruitment Guidelines and the Recruitment Notes are not entirely consistent on the composition of the recruitment boards. The CC should review the Recruitment Guidelines and the Recruitment Notes to ensure that they are consistent with each other; and
- (c) ***Endorsement of Recruitment Guidelines and Recruitment Notes.*** Audit noted that the Recruitment Guidelines and the Recruitment Notes had not been endorsed by the SFC. As both of them are important guidelines to ensure good human resource management practices, Audit considers that they need to be formally endorsed by the SFC.

Audit recommendations

3.11 Audit has recommended that the CC should:

- (a) **properly document all the key information of recruitment exercises;**
- (b) **review the Recruitment Guidelines and the Recruitment Notes to ensure that they are consistent with each other; and**
- (c) **after the review (see (b) above), seek the formal endorsement of the SFC on the revised Recruitment Guidelines and the Recruitment Notes.**

Response from the Consumer Council

3.12 The CC accepts the audit recommendations. The CE, CC has said that:

- (a) the evaluation of the test papers was normally marked on the answer sheets. Since May 2008, evaluation sheets have been used in recruitment interviews. In future, the CC will ensure that proper records of recruitment exercises are maintained; and
- (b) the CC will review the Recruitment Guidelines and the Recruitment Notes and seek the endorsement of the SFC on the revised Guidelines and Notes.

Performance appraisal

3.13 Performance management is an integral part of good human resource management. Performance appraisal, as a tool for performance management, is important in helping staff realise their potential and align it with corporate goals.

3.14 The CCSR stipulates that performance of all CC staff should be appraised for the purposes of:

- (a) assessing the suitability for confirmation in the post following a probationary period; and
- (b) assessing annually an employee's performance and conduct so as to constitute a basis of recommendation for promotion, granting of annual increment, or extension or renewal of contract.

Audit observations and recommendations

3.15 Audit reviewed the performance appraisal reports for 15 staff relating to the period January 2002 to June 2008. The audit findings are reported in paragraphs 3.16 and 3.17.

Need to ensure that all periods of employment are covered

3.16 According to the CCSR, a full appraisal report is normally required where the appraisal period is six months or more. In the event that a full report has been completed for part of a year, assessment in the form of a memorandum may suffice for the remainder of the year. However, Audit noted that for 3 of the 15 staff selected for review, a period of one year was not covered by any appraisal report.

Need to conduct staff appraisal interview

3.17 The purpose of a staff appraisal interview is to provide feedback on the appraisee's performance and potential, and to help the appraisee overcome any weakness in performance. To ensure fairness, all officers being appraised should be entitled to a staff appraisal interview. If, in exceptional circumstances, no appraisal interview is conducted, the reporting officer should state the reasons in the appraisal report. However, in all the 15 cases selected for audit examination, it could not be ascertained from the appraisal reports whether appraisal interviews had been conducted. In response to Audit's enquiry, the CC said in August 2008 that appraisal interviews were conducted by the reporting officers, though records of the interviews might not be kept in all cases.

Audit recommendations

- 3.18 **Audit has recommended that the CC should ensure that:**
- (a) **all periods of employment for all staff are covered by performance appraisals; and**
 - (b) **as a good management practice, staff appraisal interviews are conducted and documented in the appraisal reports.**

Response from the Consumer Council

- 3.19 The CC accepts the audit recommendations. The CE, CC has said that:
- (a) performance appraisal reports for the three staff (see para. 3.16) have now been completed; and
 - (b) the CC agrees that it is a good practice to include a record of appraisal interview in the appraisal report. In some cases, notes on interviews were recorded in the appraisal reports. The existing performance appraisal report form will be revised with a view to ensuring that a record of appraisal interview is documented in the report.

Management of sick leave

3.20 Employment rights and benefits are governed by the Employment Ordinance (Cap. 57). According to section 33 of the Ordinance, subject to some eligibility criteria, an employee who takes four or more consecutive days as sickness days shall be entitled to a sickness allowance for the total number of sickness days taken by him, but not exceeding the number of paid sickness days accumulated by him. Paid sickness days are accumulated at the rate of two paid sickness days for each completed month of the employee's employment during the first 12 months, and four paid sickness days for each completed month of employment thereafter. Paid sickness days can be accumulated up to a maximum of 120 days. The daily rate of sickness allowance is a sum equivalent to four-fifths of the average daily wages earned by the employee.

- 3.21 Staff of the CC are divided into two groups according to their eligibility for sickness allowance:
- (a) *contract employees appointed on or after 1 April 2001*. They are entitled to full-paid sick leave up to the number of paid sickness days which have been accumulated according to the Employment Ordinance, subject to the production of medical certificates; and

- (b) *all other staff.* They are entitled to a sickness allowance according to the CCSR. In any period of 30 months, they may be granted a maximum of 56 days' sick leave on full-pay. Any further sick leave up to a limit of an additional 56 days may be granted on half-pay. In special circumstances, the CE may grant special approval for an extension beyond the normal limit of full-pay or half-pay sick leave.

Audit observations and recommendations

Need to revise the CCSR

3.22 In July 2008, the CC completed a review of all the sick leave taken by its staff since its establishment in 1974. The review identified three staff who had been paid sickness allowances which were less favourable than those provided under the Employment Ordinance. The differences arose because of the differences between the entitlements specified in the Employment Ordinance and the CCSR. The CC compensated the staff concerned by paying them the differences. Audit considers that the CC needs to accord priority to revising the CCSR in order to ensure that sickness allowances provided are not less favourable than those provided under the Employment Ordinance.

Special approval for full-pay sick leave in excess of entitlements

3.23 At an SFC meeting held on 6 May 2008, it was noted that, in some cases, the CE's special approval was sought long after a CC employee had taken full-pay sick leave in excess of entitlements under the CCSR. The SFC advised that, in future, salary should be automatically deducted for sick leave taken exceeding the limits set by the CCSR. Audit conducted a review of the special approval for full-pay sick leave taken in excess of entitlements in the period 1 January 2005 to 2 May 2008. The audit findings are shown at Appendix E. Audit noted that, in a number of cases, the special approval was not given promptly after the full-pay sick leave entitlements were exceeded. Audit considers that such cases should have been reported to the CE earlier so that the CE could decide whether special approval should be given.

Audit recommendations

3.24 **Audit has recommended that the CC should:**

- (a) **accord priority to revising the CCSR on sick leave entitlements, in order to ensure compliance with the Employment Ordinance; and**
- (b) **devise guidelines for granting special approval to staff who have taken full-pay sick leave in excess of the entitlements under the CCSR. For example, the guidelines should stipulate that the CE's special approval has to be sought promptly.**

Response from the Consumer Council

- 3.25 The CC accepts the audit recommendations. The CE, CC has said that:
- (a) the CC started the review of the CCSR in July 2008 and will accord priority to the exercise;
 - (b) it is the CC's practice that the last day of a sick leave period is taken as the cut-off day of the 30-month period to ascertain whether the 56 days of full-paid sick leave limit has been exceeded. If special approval is to be sought, a staff who has been on sick leave is requested to submit after his sickness days/periods medical certificates and recommendations from the Head of Division; and
 - (c) there were cases where staff took a number of sick leave periods within a short period of time. In such circumstances, while the special approval for the first sick leave period was being sought, the staff concerned took another sick leave and time was required to update the position. As a result, there was longer time lapse for granting the special approval. Among the cases highlighted by Audit, there were two cases where covering verbal special approval was given to the staff for taking regular sick leave to attend follow-up medical consultations. Formal special approval was given upon the completion of the follow-up medical consultations.

PART 4: ADMINISTRATIVE ISSUES

4.1 This PART examines the administrative issues of the CC and reports that there is room for improvement in the following areas:

- (a) management of investment (paras. 4.2 to 4.8);
- (b) procurement matters (paras. 4.9 to 4.14);
- (c) entertainment expenses (paras. 4.15 to 4.22); and
- (d) business travel expenses (paras. 4.23 to 4.26).

Management of investment

4.2 According to section 14 of the CC Ordinance, all money of the CC that is not immediately required shall be invested on fixed deposit in any bank or savings bank approved by the Financial Secretary for the purpose, or in such other forms of investment as the Financial Secretary may approve.

Investment strategy

4.3 In 2005, the CC established the Advisory Group on Investment Strategy (AGIS) to advise on the investment strategy for CLAF (see para. 1.4) and for the CC's liquid funds. The AGIS convened its first meeting in April 2005 and made the following recommendations:

- (a) having considered the present return rates of other low-risk investment instruments being not much higher than fixed deposit interest rates and the anticipated rise in such interest rates, the CC and CLAF should continue to invest their liquid funds in short-term fixed deposits;
- (b) an authorised list of six banks should be drawn up for the CC. Each time when new liquid funds were to be placed in fixed deposits, quotations should be obtained from four banks by rotation. The list would be subject to review when necessary;
- (c) quotations for interest rates for fixed deposits of one to three months should be obtained, and the final selection should be subject to the CC's liquidity and the interest rates offered; and
- (d) when placing deposits with any individual bank, the maximum exposure should be capped at 50% of the CC's total money available for investment.

In May 2005, the SFC approved the AGIS's recommendations.

Analysis of CC's bank deposits

4.4 In 2007-08, the CC placed 63 fixed deposits with banks (comprising 48 renewals of deposits and 15 new deposits). Audit's analysis showed that:

- (a) ***Deposit amounts.*** The deposit amounts ranged from \$0.3 million to \$4.7 million. The average deposit amount was \$3.1 million;
- (b) ***Deposit periods.*** 55 (87%) deposits were for periods of not more than one month, 7 (11%) deposits were for periods of more than one month but less than two months, and 1 (2%) deposit was for two months; and
- (c) ***Interest rates.*** The interest rates ranged from 1.25% to 5.2%. The average interest rate was 3.43%. The total interest earned was \$0.5 million.

4.5 As at 31 March 2008, the CC's bank deposits amounted to \$13.7 million, which comprised:

- (a) fixed deposits of \$12.4 million (91%); and
- (b) funds of \$1.3 million (9%) placed in savings and current accounts.

Audit observations and recommendation

4.6 An audit examination of the 63 deposits in 2007-08 revealed the following areas where improvements could be made:

- (a) ***Obtaining quotations from the same four banks.*** Audit noted that the CC's investment strategy of obtaining quotations from four authorised banks by rotation (see para. 4.3(b)) had not been followed. Almost all quotations (except one) were obtained from the same four banks on the authorised list of six banks. In response to Audit's enquiry, the CC said in September 2008 that it had obtained quotations from all six banks in the past. It later noticed that quotations obtained from two banks were consistently much lower than those from the other four banks. Since then, it only obtained quotations from the four banks. Audit considers that the CC needs to consider reviewing the authorised list of six banks and ensure that the investment strategy of obtaining quotations from four banks by rotation is followed in future;
- (b) ***Quotations from less than four banks.*** The CC's investment strategy requires that for new deposits, quotations should be obtained from four banks (see para. 4.3(b)). However, for six (40%) of the 15 new fixed deposits, the CC obtained quotations from less than four banks; and

- (c) ***Ceiling of deposits exceeded.*** Audit conducted an analysis of 45 fixed deposits placed in 2007-08. Audit found that there were 11 (24%) deposits where the placing of deposits resulted in the amount of fixed deposits in a bank exceeding 50% of the CC's total money available for investment (see para. 4.3(d)).

Audit recommendation

4.7 **Audit has recommended that the CC should take measures to ensure that when placing fixed deposits with banks, all the requirements specified in its investment strategy are complied with.**

Response from the Consumer Council

4.8 The CC accepts the audit recommendation. The CE, CC has said that the AGIS will soon review the issues mentioned in paragraph 4.6.

Procurement matters

4.9 The CC divides procurements into five categories according to the amounts. The CC's Procurement Guidelines stipulate the required number of quotations and approving authorities for each category of procurement (see Table 1).

Table 1

Procurement guidelines for different categories of procurement

Category	Amount (\$)	Required number of quotations	Authority for approving procurement	Authority for accepting a tender/quotation other than the lowest
A	\$1 to \$3,000	Normally more than 1 quotation	Principal/Chief Officers, Senior Administration Officer	Deputy CE
B	\$3,001 to \$50,000	At least 2 quotations	Deputy CE	CE
C	\$50,001 to \$100,000	Normally 5 written quotations	CE	SFC
D	\$100,001 to \$200,000	Normally 5 written quotations	Chairman of SFC and CE	SFC
E	Exceeding \$200,000	Restricted tender procedures	SFC	SFC

Source: CC records

Audit observations and recommendations

Need to improve tendering procedures

4.10 Audit reviewed the tendering procedures of the CC and noted the following areas where improvements could be made:

- (a) ***Open tendering for procurements of large values.*** The Government's Stores and Procurement Regulations stipulate that government departments should normally adopt open tendering for procurements with a value exceeding \$1.3 million. The CC did not specify an amount exceeding which open tendering procedures should be adopted. The CC's Procurement Guidelines require its staff to adopt restricted tendering for procurements of a value exceeding \$200,000. Audit noted that in March 2008, the CC adopted restricted tendering for a procurement of \$2.6 million; and

- (b) ***Use of marking scheme for tender evaluation.*** The Government's Stores and Procurement Regulations set out guidelines for the use of marking scheme for tender evaluation. According to the guidelines, government departments should normally adopt a weighting of 30% to 40% for technical score, and 60% to 70% for price score. Departments proposing a weighting higher than 30% to 40% for technical score should provide full justification in their submissions to the relevant tender boards. On the other hand, the CC did not set out any guidelines for the use of marking scheme. Audit noted that, in the tender exercise for the procurement mentioned in (a) above, the CC adopted a weighting of 70% for technical score and 30% for price score.

4.11 To further improve its procurement procedures, the CC may consider adopting open tendering for procurements of large amounts, and setting out guidelines for the use of marking scheme, in particular the relative weightings for technical and price assessments.

Compliance with procurement requirements

4.12 Audit selected 25 procurements in 2007-08 for examination and found that there was room for improvement in the following areas:

- (a) ***Endorsement by Head of Division.*** According to the CC's procurement procedures, procurement requisitions for goods and services should be endorsed before they are purchased. Of the 25 cases examined by Audit, 4 (16%) procurement requisitions were endorsed by the Head of Divisions after the goods/services were purchased. In response to Audit's enquiry, the CC advised in September 2008 that the four procurements related to goods/services urgently needed. Verbal approvals were obtained for these procurement requisitions before the goods/services were purchased. Audit considers that the CC needs to document verbal approvals for urgent procurements of goods/services when written approval cannot be obtained in time;
- (b) ***Obtaining quotations.*** In 5 (20%) of the 25 cases examined by Audit, the required number of quotations stipulated in the CC's Procurement Guidelines were not obtained; and
- (c) ***Approving authorities.*** Audit examination revealed that the following procurements were not approved by the proper authorities:
- (i) according to the CC's Procurement Guidelines, for Category D procurements, the approval from the SFC was required for the acceptance of a quotation other than the lowest. Audit noted that in a Category D procurement, the CC accepted a quotation of \$164,000 which was not the lowest quotation, but the SFC's approval was not obtained; and

- (ii) the CC's Procurement Guidelines stipulate that procurements exceeding \$200,000 (Category E procurements) have to be approved by the SFC. Audit noted that the CE, instead of the SFC, approved a renewal of rental contract for trunk lines for the interactive voice system of the complaints and enquiries hotline service, covering 24 months at a cost of \$14,850 per month. The total cost of the contract was \$356,400.

Audit recommendations

4.13 **Audit has recommended that the CC should:**

- (a) **taking into account the Government's guidelines, consider:**
 - (i) **adopting open tendering for procurements of large amounts; and**
 - (ii) **setting out guidelines for the use of marking scheme, in particular the relative weightings for technical and price assessments;**
- (b) **ensure that staff strictly comply with the CC's Procurement Guidelines and procurement procedures; and**
- (c) **document verbal approvals for urgent procurements of goods/services when written approval cannot be obtained in time.**

Response from the Consumer Council

4.14 The CC accepts the audit recommendations. The CE, CC has said that the CC will ensure that the Procurement Guidelines and the procurement procedures are strictly complied with in future. She has also said that:

- (a) the procurement mentioned in paragraph 4.10 was for an interactive computer system for handling complaints and enquiries. The whole procurement exercise was overseen by the CC's Working Group on Web-based Services and Computer Network. Invitations for submission of tenders were sent to major suppliers in the market. The tender exercise and result were endorsed by the SFC and reported to the Council. The exercise strictly followed the CC's Procurement Guidelines and was fair and open. The marking assessment consisted of a diversified evaluation covering a number of criteria. For the development of a case management system, technical aspects are considered an important element. The Council accords high priority to the functionality, reliability, and efficiency of the system which needs to handle the huge volume of complaints lodged with the CC each year. The marking scheme was set after careful and serious consideration and consultation with the Working Group;

- (b) the CC tries its very best to observe the Procurement Guidelines in obtaining quotations. In the five cases mentioned in paragraph 4.12(b), at least three written quotations were obtained. The CC will consider reviewing the Procurement Guidelines in order to make the requirements more realistic and practicable;
- (c) the procurement mentioned in paragraph 4.12(c)(i) was related to an online marketing promotion campaign in the Mainland for the CC's "Shopsmart" website for Mainland tourists. The procurement proposal was approved by the Publicity and Community Relations Committee; and
- (d) the procurement for the renewal of rental contract for trunk lines (see para. 4.12(c)(ii)) was not an initial purchase but a routine exercise. Nevertheless, the CC will review the approving authority for such kind of procurement in future.

Entertainment expenses

4.15 Public entities need to pay due regard to controlling sensitive expenditure (Note 5). Entertainment expense is a major type of sensitive expenditure.

4.16 Although the amounts involved in its entertainment expenses are generally not large, the CC still needs to exercise tight controls in order to demonstrate the prudent use of public money. The CC sets an annual budget of \$85,000 in 2007-08 for general entertainment expenses and about \$81,000 was incurred during the year.

4.17 In April 2008, Audit asked the CC if it had promulgated any entertainment expenses guidelines. In mid-May 2008, the CC promulgated its Entertainment Guidelines. The Guidelines stipulate that:

- (a) authorisation of claims for entertainment expenditure should be sought from the CE or the Deputy CE;
- (b) as a general guideline, officers should not spend more than \$250 per person for lunch or \$400 per person for dinner, inclusive of tips;
- (c) expenditure on official entertainment should be fully supported by receipts; and

Note 5: *Sensitive expenditure commonly refers to expenditure by a public entity that could be seen as giving some private benefit to an individual staff that is additional to the business benefit to the entity.*

- (d) vouchers must include sufficient supporting information and lists of guests to show that the requirement on maximum spending per person is complied with.

Audit observations and recommendation

4.18 Audit examined 30 entertainment payments in 2007-08 and identified the following areas for improvement.

Lists of guests

4.19 Guest lists are important in supporting entertainment expenses. They also serve as documentary evidence to prove that the maximum spending amounts per person are not exceeded. In 23 (77%) of the entertainment payments examined by Audit, the vouchers were not supported by a list of guests. Instead, the guest lists were kept separately on file. Audit notes that the Entertainment Guidelines promulgated by the CC in May 2008 require that vouchers must be supported by guest lists (see para. 4.17 (d)) so that before approving the vouchers, approving officers could ascertain whether the spending limits are exceeded. Audit considers that the CC should ensure that this requirement is complied with.

Original receipts

4.20 On the claim form for entertainment expenses, it was stated that original copies of receipts must be attached as appropriate. However, for 11 (37%) payments, the vouchers were supported by copies of receipts (instead of the original receipts).

Audit recommendation

4.21 **Audit has recommended that the CC should ensure that all staff comply with the requirements specified in the Entertainment Guidelines and provide original receipts to support entertainment expenses.**

Response from the Consumer Council

4.22 The CC accepts the audit recommendation. The CE, CC has said that the CC is prudent in incurring entertainment expenses and staff are required to comply with the requirements specified in the Entertainment Guidelines. From May 2008 onwards after the issue of the Guidelines, all vouchers are required to be supported by original receipts.

Business travel expenses

4.23 Besides entertainment expenses, business travel expense is another major type of sensitive expenditure (see para. 4.15). The CC incurred business travel expenses mainly for its staff to attend conferences. On many occasions, the CC's staff were invited to speak at international conferences on global consumer policies and issues. In 2007-08, the CC incurred business travel expenses of about \$254,000.

Audit observations and recommendations

4.24 Audit examined the CC's business travel expenses in 2007-08 and identified the following areas for improvement:

- (a) ***Compliance with procurement requirements.*** Audit noted that in 2007-08, the CC procured all the air tickets (amounting to about \$125,000) from the same travel agent without obtaining any quotations from other agents. This was not in compliance with the CC's Procurement Guidelines and procurement procedures; and
- (b) ***Need to establish guidelines.*** The CC has not established any guidelines for the control of business travel expenses. Although the CC follows the Government's guidelines on duty travel, Audit considers that it is a good management practice for the CC to set out guidelines to control business travel expenses, e.g. the approving authorities for duty visits. In setting such guidelines, the CC may make reference to the Government's guidelines on duty travel.

Audit recommendations

4.25 **Audit has recommended that the CC should:**

- (a) **ensure that its Procurement Guidelines and procurement procedures are complied with in procuring air tickets for business travels. In particular, the CC should invite quotations from more than one travel agent for procuring air tickets and accept the best offer with the justifications documented; and**
- (b) **consider establishing guidelines on the control of business travel expenses, e.g. setting out the approving authorities for duty visits.**

Response from the Consumer Council

- 4.26 The CC accepts the audit recommendations. The CE, CC has said that:
- (a) in 2007-08, the CC did procure a tour package (i.e. air tickets and hotel accommodation) from another travel agent (other than the one mentioned in paragraph 4.24(a)), after obtaining written quotations from a few agents;
 - (b) the CC exercises strict controls to ensure economy in procuring air tickets and always chooses the lowest price. It has been the CC's practice of purchasing air tickets after comparing verbal quotations from several travel agents as well as quotations from popular airlines offered on the Internet, notwithstanding that such quotations were not documented. The selected travel agent provided the lowest prices with the best routes. Since mid-March 2008, the CC has required its staff to document all quotations obtained for procuring air tickets;
 - (c) in addition to price, reliability and flexibility are also important factors to be considered in choosing a travel agent. Very often, the travel agent concerned (see para. 4.24(a)) was flexible in the timing of issuing air tickets; and
 - (d) in August 2008, the SFC endorsed the CC's proposed system of obtaining approval for duty visits, which set out the required levels of approving authority for duty visits made by Council Chairman and members, and staff of the CC.

PART 5: PROTECTING AND PROMOTING CONSUMER INTERESTS

5.1 This PART examines the CC's work on protecting and promoting consumer interests. Audit notes that there is room for improvement in the following areas:

- (a) product tests and consumer surveys (paras. 5.2 to 5.10);
- (b) price surveys (paras. 5.11 to 5.18);
- (c) handling complaints (paras. 5.19 to 5.24);
- (d) encouraging responsible trade practices (paras. 5.25 to 5.36); and
- (e) administration of CLAF (paras. 5.37 to 5.48).

Product tests and consumer surveys

Product tests and consumer surveys conducted by the CC

5.2 ***Product tests.*** The CC regularly conducts tests on consumer products to provide comparative test results on product quality and safety for consumers to make informed choices (Photograph 2). Types of tests included tests conducted by the CC's own resources with the assistance of local or overseas laboratories, and joint tests conducted by the International Consumer Research and Testing Limited (Note 6). Apart from product tests, studies were also carried out on a wide range of consumer products to provide consumer information.

Note 6: *The International Consumer Research and Testing Limited is an association of 41 consumer organisations from 37 countries. The CC benefits from the joint tests through sharing of test results and experience.*

Photograph 2

Product tested by the CC (lenses of spectacles)



Source: CC records

5.3 **Consumer surveys.** The CC conducts opinion surveys, market surveys and price surveys to collect information on goods and services for the benefit of consumers. For many years, the CC has also regularly collected the prices of products sold in supermarkets and textbooks, in order to monitor long-term trends and identify issues of concern.

Disseminating findings of product tests through the CHOICE magazine

5.4 Reports on findings of product tests, product studies, surveys and service studies are published in CHOICE, which is the CC's monthly magazine. CHOICE provides a regular outlet of information, advice and viewpoints on all matters of consumer interests. It reports the results and conclusions of comparative product testing, and service assessment through surveys and in-depth studies. Regular columns of special interests are also included, focusing on topics such as health and nutrition, consumer complaints, hazardous products, environmental concerns, drug safety, investor education, and issues of global consumer concern. A press conference is held to launch the publication of each issue of CHOICE, generating widespread media coverage. In 2007-08, the CC published in CHOICE 41 product testing reports, 32 product study reports, and 26 surveys and service study reports.

Management of product test and research projects

5.5 The Research and Testing Committee (RTC) formulates product test and research policies. It also advises on deployment of resources for product test and research projects, and reviews and approves reports on these projects before they are published. The Research and Survey Section of the Research and Trade Practices Division is responsible for the overall project planning and execution. As at 1 April 2008, the Research and Survey Section had 19 staff comprising 13 project officers and 6 clerical staff. Apart from the staff costs involved, expenditure relating to product test and research projects amounted to about \$3 million in 2007-08.

5.6 The CC has developed a set of guidelines for the planning, execution and evaluation of research and testing projects. The guidelines, among other things, cover the following:

- (a) selection of topics;
- (b) approval of project proposals;
- (c) obtaining comments from stakeholders before reports are finalised; and
- (d) approval of reports by the RTC before publication.

Details of the above guidelines are shown at Appendix F.

Audit observations and recommendations

5.7 Audit's examination of research and testing projects completed by the CC in recent years showed that the projects were generally conducted in accordance with the CC's guidelines mentioned in paragraph 5.6. However, Audit noted that the publication of a research project had generated controversy. This project related to the bank interest rate study in February 2006.

Bank interest rate study

1. The bank interest rate study was prompted by consumer requests and media enquiries the CC received from time to time and, in particular, during the interest rate hike cycle in 2005. The public was very concerned about interest adjustments by banks in Hong Kong vis-à-vis the US rate changes. To address the public concern, the CC conducted a study to collect information from banks on their interest rate movements in the 5-year period 2001 to 2005.

2. The study was completed in February 2006. Prior to the release of the study report, the CC invited comments from the Hong Kong Monetary Authority, the Hong Kong Association of Banks, the banks concerned, as well as academics. Their comments were incorporated in the published study report and the press release. The study report was also sent to the then Chairman of the Council for comments, and the RTC for comments and endorsement. According to the study report published on 15 February 2006:

- (a) there were significant differences in the pattern of interest rate adjustments by banks in Hong Kong from that in the US. After the cumulative adjustment during the period under study, the Hong Kong Best Lending Rate was 67 basis points or 0.67% higher than that of the US Federal Funds Rate. This was contrary to the general public expectation that under the Linked Exchange Rate System, Hong Kong's interest rates would follow closely those of the US;
- (b) the CC looked into the public concern that banks were quick to raise but slow to reduce interest rates. This might have different impacts on the depositors and the borrowers; and
- (c) the CC expressed concern over the confusion created by the existence of two tiers of prime rate to mortgage borrowers. Lenders with a higher prime rate were not necessarily less competitive than those with a lower prime rate. Consumers shopping for mortgage loans were advised to always ask the lenders for the effective mortgage interest rate (in absolute terms), alongside with the level of the prime rate.

3. On 16 February 2006, two local newspapers published editorials criticising the CC for being unfamiliar with the operation of the money market. On the same day, the CC disagreed with some of the views expressed in the editorials and wrote to the editors to clarify the CC's stance. On 21 February 2006, another local newspaper published an article written by a well-known academic, criticising the CC's work and its report. The CC did not respond to the criticisms.

4. The CC found that the comments on the published study report were rather unexpected. The CC considered that some of these comments were based on over-simplified media reports or even misinterpretation from the press. In the reply letter dated 16 March 2006 to a Council member who expressed concern over the matter, the then CE said that the article had served to help the public understand the fact that Hong Kong's interest rate did not necessarily follow the rate changes in the US for various reasons. The CE also said that the CC had taken the opportunity to learn from the feedback and from the experience.

Audit comments

5. Audit noted that the bank interest rate study was conducted by the CC's in-house staff. The CC commenced this study without seeking the RTC's approval of the project proposal. According to the CC, at the planning stage of the research study, the CC considered that the study would be a fact-finding study based on information collected from banks by way of market survey and it was not a matter of course for prior approval to be obtained from the RTC for a study of this nature. Apparently, the CC did not consider that the study would involve sensitive issues, as otherwise the RTC's approval of the project proposal would have been sought in accordance with the CC's guidelines (see (b)(iii) of Appendix F). In the event, the CC only sought the RTC's endorsement on the study report before its publication.

6. Audit considers that, for a complex project involving sensitive issues of great public interest, the CC may need to enhance its risk management. In particular:

- (a) as the study was prompted by public concern in a time of interest rate hike (see sub-para. 1 above), the conduct of such a study would likely involve sensitive issues of great public interest. Furthermore, the study was a complex one involving the banking system and the money market of Hong Kong. Therefore, it would have been prudent for the project proposal to be submitted to the RTC for approval, so as to seek its members' input at the early planning stage of the study; and
- (b) given the complex and technical nature of the subject, the CC might consider engaging consultants to assist it in planning and conducting the study, on top of its usual efforts to consult various stakeholders and obtain their feedback where possible.

Source: Audit analysis of CC records

5.8 Audit considers that the controversy resulted from this project could have caused confusion to the public. This would not be conducive to helping the public make an informed decision. Audit's study into this incident showed that there was scope for further improvement in the CC's management of complex research and testing projects.

Audit recommendations

5.9 **Audit has recommended that the CC should, with a view to enhancing its risk management process:**

- (a) **for a complex project involving sensitive issues of great public interest, submit the project proposal to the RTC for approval, so as to seek its members' input at the early planning stage; and**
- (b) **for a complex and technical subject, consider the need for engaging consultants to assist it in planning and conducting the project.**

Response from the Consumer Council

5.10 The CC accepts the audit recommendations. The CE, CC has said that the study report also received some positive comments. For example, in March 2006, a well-known academic pointed out in a newspaper article that the study report was objective and banks had been “leap-frogging” interest rate in the past. She has also said that as noted by Audit, comments were sought from various parties including the then Chairman, the regulatory bodies and academics, and their comments were incorporated in the study report. Also, the endorsement of the study report was sought from the RTC (see sub-para. 5 of para. 5.7).

Price surveys

5.11 The CC conducts annual supermarket price surveys as a price surveillance project. It also conducts ad hoc price surveys on essential food and other consumer products in response to Government's proposals, media suggestions or consumer requests. The results are usually published in the CHOICE magazine.

5.12 On 23 May 2008, the RTC gave approval for the CC to conduct bi-weekly surveys. In each survey, the CC would collect retail prices of around 15 popular items comprising different categories from outlets in a district. According to the CC, the objectives of the bi-weekly survey are to:

- (a) provide consumers with reference prices on which to base their purchase decisions;
- (b) give consumers price indications rather than advice on where best to buy;
- (c) enhance price transparency in the marketplace in times of inflation; and
- (d) carry out price surveillance on staple foods and daily necessities, in a move to help relieve consumers of inflationary prices.

New initiatives

5.13 On 16 July 2008, the Government announced a package of anti-inflation measures to help ease inflation. One of the measures was for the Government to help the CC expand its existing price surveillance exercise to compare and report prices in supermarkets, shops and markets. On the same day, the CC announced its plan to launch three price surveillance projects:

- (a) ***Weekly price survey.*** The CC would change the current bi-weekly price surveys to weekly price surveys. Other changes made include:
 - (i) expanding the number of commodities covered in the survey from 15 to 40 items initially, and even more items gradually afterwards;
 - (ii) expanding the scope of the survey to cover fresh produce, such as vegetables and fruits sold in wet markets and supermarkets;
 - (iii) publishing the names of the retail outlets surveyed; and
 - (iv) releasing comparison of price information on websites of major supermarket chains against the information on actual prices offered at the supermarkets;
- (b) ***Collection of price information from supermarket websites.*** The CC would collect and assemble online shopping price information from the websites of all supermarket chains, and disseminate such information on the CC's 'pricewatch' website; and
- (c) ***Daily release of price information for items sold at wet markets.*** To provide consumers with reference before they set out for their daily food shopping, the CC would report every day the prices of about a dozen items sold at wet markets.

Audit observations and recommendations

Incorporating price surveillance as a strategic objective

5.14 There are constant developments in consumer protection in Hong Kong. To provide effective strategic directions for future development, it is necessary for the CC to regularly review and update its Strategic Plan to take into account important factors such as mounting inflation. Audit noted that the bi-weekly survey exercise (see para. 5.12) was launched by the CC in May 2008 when there was public concern about mounting inflation. At the request of the Government, in July 2008, the CC decided to expand the scope of the exercise by launching three price surveillance projects (see para. 5.13). So far, the issue of launching and expanding the price survey exercise had not been dealt with in the CC's

strategic planning process. As price surveillance will likely become a major regular exercise, Audit considers that the CC needs to incorporate price surveillance as a strategic objective in its Strategic Plan, and ensure that the objective is translated into operational plans (see also paras. 2.33 to 2.37).

Management of price surveillance projects

5.15 As the price surveillance projects (see para. 5.13) would be conducted in a larger scale and on a longer-term basis than the existing price surveillance activities, thorough planning is important to ensure the smooth and effective project implementation. Audit considers that the CC needs to devise detailed plans for implementing the projects. Evaluation should be performed on a regular basis in order for the CC to assess the effectiveness of the projects and make fine-tuning where necessary.

5.16 In conducting its annual supermarket price surveys (see para. 5.11), the CC obtained the price information from the scanned data of the supermarkets through an agent. For the bi-weekly price surveys, the CC deployed its own staff to collect price information. To ensure that the forthcoming weekly price surveys are conducted in the most economical and effective manner, the CC needs to consider whether it is more cost-effective to outsource part of the survey work, including exploring the feasibility of using volunteers in conducting such surveys. Furthermore, the CC needs to regularly collect user feedback on the usefulness of its price surveys.

Audit recommendations

5.17 **Audit has recommended that the CC should:**

- (a) **incorporate price surveillance as a strategic objective in its Strategic Plan, and ensure that the objective is translated into operational plans;**
- (b) **formulate detailed implementation plans for the price surveillance projects;**
- (c) **regularly evaluate the effectiveness of the price surveillance projects and make fine-tuning where necessary;**
- (d) **consider outsourcing part of the price survey work, including exploring the feasibility of using volunteers in conducting the price surveys; and**
- (e) **regularly collect user feedback on the usefulness of the price surveys.**

Response from the Consumer Council

- 5.18 The CC accepts the audit recommendations. The CE, CC has said that:
- (a) regarding incorporating price surveillance as a strategic objective in the CC's Strategic Plan, the CC is considering adding it in the Strategic Plan. The Council's endorsement on such revision will be sought; and
 - (b) the CC is very concerned about the accuracy of price data and the CC makes every effort to ensure that the groundwork is sound. The CC will consider engaging volunteers in conducting price surveys when the price surveillance projects are more mature.

Handling complaints

5.19 According to section 4 of the CC Ordinance, the functions of the CC are to protect and promote consumer interests by, among other things, receiving and examining complaints and giving advice to consumers.

5.20 The Complaints and Advice Division (CAD) is responsible for handling consumer complaints against traders. It is headed by a Principal Complaints and Advice Officer. As at 1 April 2008, it had an establishment of 54 staff.

5.21 The CC promulgated a set of procedures for the handling of consumer complaints against traders (Complaint Procedures). According to the Procedures:

- (a) Chief Complaints and Advice Officers (CCAOs) will monitor and review every month the progress of all complaint cases not yet completed; and
- (b) if a reply has not been received from the trader concerned for more than a month, a reminder should be sent to the trader for follow-up. In the event of repeated non-response, the responsible Complaints Officer should notify and consult the responsible CCAO for comments and action.

The CAD had a system to monitor the progress of handling complaint cases. The CC's computerised case management system would bring up cases due for review to the CCAOs weekly.

Audit observations and recommendation

5.22 Audit's examination of a sample of 30 complaints handled by the CAD in 2007-08 revealed that:

- (a) in 14 (47%) complaints, there was no documentary evidence showing that the responsible CCAOs had monitored and reviewed every month the progress of the complaints; and
- (b) in 4 (13%) complaints, no reminders (written or verbal) were given to the traders concerned for follow-up despite the fact that replies had not been obtained for these complaints for more than a month.

Audit recommendation

5.23 **Audit has recommended that the CC should take measures to ensure that its staff comply with the Complaint Procedures.**

Response from the Consumer Council

5.24 The CC accepts the audit recommendation. The CE, CC has said that the CC will try its best to comply with the Complaint Procedures and keep track of case progress and documentation on reminders issued. The CC will consider improving and streamlining its Complaint Procedures in handling consumer complaints, taking into account the growing complexity of complaint cases.

Encouraging responsible trade practices

Background

5.25 Fair trade practices lead to greater trust by consumers in the market, and a mutually beneficial relationship between consumers and business. Where more specific consumer protection measures are called for in particular areas, tailor-made provisions are contained in sector-specific laws to ensure that the required protection is in place for consumers in the respective sectors (Note 7). There is also a wide range of trades in the provision of goods and services where the conduct of business is not covered by specific statutory requirements but relies largely on voluntary self-discipline. The CC has a statutory responsibility under the CC Ordinance to encourage business and professional associations to establish appropriate codes of practice to regulate the activities of their members (see para. 1.3(d)).

Note 7: *An example is the legislation which regulates telecommunications business and protects users of telecommunications services (Telecommunications Ordinance (Cap. 106)).*

Issue of Good Corporate Citizen's Guides

5.26 The CC issued a “Good Corporate Citizen’s Guide” in March 2005 that addresses corporate rights and responsibilities. The Guide contains a set of basic principles upon which businesses are encouraged to observe, adopt and incorporate in their own codes of practices. According to the CC, the Guide has gained widespread acceptance by the business community including a select group of 22 chambers of commerce, trade associations and professional bodies which pledged their support at the launching ceremony of the Guide on 15 March 2005. In general, the conduct of businesses of these bodies is not covered by specific statutory requirements and responsible trade practices rely largely on voluntary self-discipline.

5.27 In October 2006, the CC published the “Good Corporate Citizen’s Guide II — Rules”. This Guide contains suggested rules (i.e. the Trade Practice Rules, Complaint Handling Rules and Fair Competition Rules) that can assist professional and trade associations in considering what matters should be incorporated into their rules and codes of conduct. These rules address some of the principles set out in the first Guide issued in March 2005 as a resource for the many professional and trade associations in Hong Kong that cover a variety of different commercial environments.

Issue of Beauty Industry Code of Practice

5.28 The growth in the beauty industry in recent years had been brought about by the trend towards personal grooming and a slimmer body. Consumer dissatisfaction as revealed by press reports and complaints to the CC in relation to the industry remained high in recent years. To address such consumer concern, in August 2004, the CC worked with the beauty industry to formulate an industry code of practice. In June 2006, the CC published the “Beauty Industry Code of Practice” which was the first voluntary code of practice issued by the CC. The Beauty Industry Code of Practice set guidelines for best business practices in four key areas, namely:

- (a) the quality of services and products;
- (b) promotion and sale tactics;
- (c) the prepayment mode of operation; and
- (d) the setting up of a consumer complaint handling mechanism and service performance pledge.

5.29 At the launch of the Beauty Industry Code of Practice in June 2006, nine trade and professional bodies representing a cross-section of the beauty industry came forward in a rally to pledge support to the Code of Practice. These nine trade and professional bodies

were also represented on a Joint Consultation Group formed by the beauty industry to promote the adoption of the Code of Practice by their members across the trade. The CC had also assisted the beauty industry to take forward the implementation of the Code of Practice. In November 2006, the industry officially announced a “Pledge for the Best Beauty Service” programme plus training sessions. In 2007, the Code of Practice was incorporated into the programme’s training manual of professional operation and business management.

Audit observations and recommendations

Monitoring the implementation of the Beauty Industry Code of Practice

5.30 Audit considers that the success of the Code of Practice will depend on whether it is widely adopted by the beauty industry. To enhance consumer awareness and confidence, consumers should be given information regarding details of the participation by operators of the beauty industry. In response to Audit’s enquiry on the extent to which the Beauty Industry Code of Practice had been adopted, the CC said in July 2008 that despite the lack of actual data collected from a survey showing the extent of adoption, the CC believed that the Code of Practice should have a high rate of participation by operators of the beauty industry. This was because the nine trade and professional bodies which had pledged support to the Code of Practice (see para. 5.29) represented more than half of Hong Kong’s beauty care training centres and institutes, small/medium and chain operators, aestheticians, cosmetics, and apparatus suppliers.

5.31 To evaluate the effectiveness of the Beauty Industry Code of Practice and to monitor the progress of implementation, Audit considers that the CC should ascertain the percentage of members of the relevant trade and professional bodies of the beauty industry adopting the Code of Practice and, where necessary, provide assistance and advice to the beauty industry on the implementation of the Code of Practice. The CC should also provide information to consumers regarding the operators which have adopted the Code of Practice to enhance awareness and confidence.

Formulating more codes of practice

5.32 The number of consumer complaints received by the CC in recent years had increased by 13,237 (56%) from 23,610 in 2002-03 to 36,847 in 2007-08. This large case volume had exerted pressure on CC staff. The CC had also deployed considerable amount of its resources in handling consumer complaints. As at 1 April 2008, some 40% of the CC staff were deployed to handling consumer complaints and enquiries. In Audit’s view, the issue of more codes of practice, which promotes industry self-regulation and fair trade practice, may help reduce the number of consumer complaints. Moreover, the CC’s pressure in handling consumer complaints may also be relieved as trade industries may be able to settle consumer complaints themselves based on the consumer complaint handling mechanism included in the codes of practice.

5.33 According to the CC's 3-year Strategic Plan for 2007-2010, the CC planned to work with business/trade associations in the formulation of codes of practice for industries such as time sharing companies, laundry industry and estate agents during the 3-year planning period. However, Audit noted that the CC had so far issued only one code of practice (i.e. the Beauty Industry Code of Practice). In response to Audit's enquiry on the implementation plan for formulating the codes of practice, the CC said in September 2008 that it would require the support of the related business/trade associations. Given the complexity in promoting industry self-regulation, the success of its effort depended much on the motivation of industry members and their ability to implement such a programme. Even though a few industry representatives might be supportive of the idea, they might not be able to inspire others to follow and buy in. Therefore, the CC had not prepared an implementation plan for formulating more codes of practice.

5.34 One of the main functions of the CC, as stipulated in the CC Ordinance, is to encourage business and professional associations to establish codes of practice. Moreover, the adoption of codes of practice will ensure good trade practices in the marketplace, which will enhance the quality of products and services. **Audit considers that the CC should consider the need to accord priority to formulating more codes of practice, in collaboration with the trades concerned.**

Audit recommendations

5.35 **Audit has recommended that the CC should:**

- (a) **ascertain the percentage of members of the relevant trade and professional bodies of the beauty industry adopting the Beauty Industry Code of Practice and, where necessary, provide assistance and advice to the beauty industry on the implementation of the Code of Practice;**
- (b) **provide information to consumers regarding the operators in the beauty industry which have adopted the Beauty Industry Code of Practice to enhance consumer awareness and confidence; and**
- (c) **consider the need to accord priority to formulating more codes of practice, in collaboration with the trades concerned.**

Response from the Consumer Council

5.36 The CC accepts the audit recommendations. The CE, CC has said that:

- (a) the CC considers that the beauty industry would need time for training and promotion of the Beauty Industry Code of Practice to gain support from small

beauty operators. According to the industry, upon completion of the training stage of the programme this year, they plan to move on to the implementation and accreditation phases. They will have to study the processes involved and feasibility of applying for funding for the purposes. The CC agrees that subject to an assessment of the competing demands on its resources, the CC should ascertain the progress of implementation of the Code of Practice which should best be carried out when the industry has come up with a concrete plan; and

- (b) the CC, in striving to promote industry self-regulation, has to identify certain trades to start with.

Administration of the Consumer Legal Action Fund

Background

5.37 Since its establishment in 1974, the CC had played an important role in mediating disputes between consumers and business. In 1994, the CC estimated that only one-third of the unsettled cases that might have grounds for legal action were actually pursued in the courts. Most consumers did not pursue their legitimate claims against unscrupulous traders through private litigation due to ignorance about available legal remedies and the relatively small amounts involved which did not justify the cost of such litigation. As a result, they gave up their claims for compensation for loss or damage, leaving some business malpractices unchallenged and uncorrected.

5.38 On 11 November 1994, the Finance Committee (FC) of the Legislative Council approved a capital grant of \$10 million to establish CLAF. On 30 November 1994, CLAF was established with the CC acting as the Trustee through a Declaration of Trust (Note 8). CLAF aims to give easier consumer access to legal remedies by providing financial support and legal assistance for the benefit of consumers, particularly groups with similar grievances in cases involving significant public interest and injustice. Through supporting justifiable cases, CLAF also aims to deter business malpractices and enhance public awareness of their consumer rights.

Note 8: *CLAF was set up as a charitable trust with the CC acting as the trustee. The purpose was to segregate the assets of CLAF from those of the CC so as to ensure that the CC was not supporting a court action in return for a share of the proceeds.*

Administration of CLAF

5.39 The CC, as the Trustee of CLAF, is responsible, through a Board of Administrators (BA), for the overall administration and investment of CLAF. The BA is advised by a Management Committee (MC) on the eligibility and merits of applications for assistance from CLAF. The MC is also charged with the responsibility of overseeing the operation of CLAF.

5.40 Under the existing arrangement, a consumer may apply direct to CLAF for assistance, or the application may be referred by the CC. In the latter case, the CC will, upon receipt of a complaint, ascertain the facts of the case, contact the party being complained against and try to resolve the dispute through mediation. If mediation is not successful and the CC is satisfied that the complaint is substantiated and meets the vetting criteria of CLAF, the CC will refer the case to the MC for consideration. In examining an application for assistance, the MC will consider whether all other means of dispute resolution have been exhausted and assess the case against the eligibility criteria. Such criteria include:

- (a) the case must only relate to consumer transactions;
- (b) it should involve significant consumer interest and/or injustice;
- (c) whether a group of consumers has been adversely affected, or there is potential for a large group of consumers to be adversely affected;
- (d) the cost-effectiveness of the action;
- (e) the chance of success of the case; and
- (f) the bargaining power of the claimants (preference is given to those consumers who have weak bargaining power).

Finance of CLAF

5.41 The \$10 million grant was provided by the Government as seed money for setting up CLAF. According to the FC paper for establishing CLAF, the Government intended CLAF to be self-financing with income derived from:

- (a) investing the capital sum;
- (b) charging each applicant an application fee of \$100 for each case within the jurisdiction of the Small Claims Tribunal and \$1,000 for each other court case;

- (c) recovering legal costs from the opponent party in successful cases;
- (d) receiving from each successful case a contribution of 10% of the benefits gained by the assisted consumer; and
- (e) recovering from the assisted consumer any difference between costs incurred by CLAF but not recovered from the opponent party under (c) above, provided that the total amount paid by the assisted consumer under (d) and (e) above should not exceed the ceiling of 25% of the benefits gained for matters that may be or are actually determined in the Small Claims Tribunal and 50% of the benefits gained for matters dealt with in other courts (Note 9).

As at 31 March 2008, CLAF had a fund balance of about \$16 million, an increase of 60% when compared with the start-up position of \$10 million in 1994. An analysis of the accumulated surplus of \$6 million is shown at Appendix G.

CLAF cases

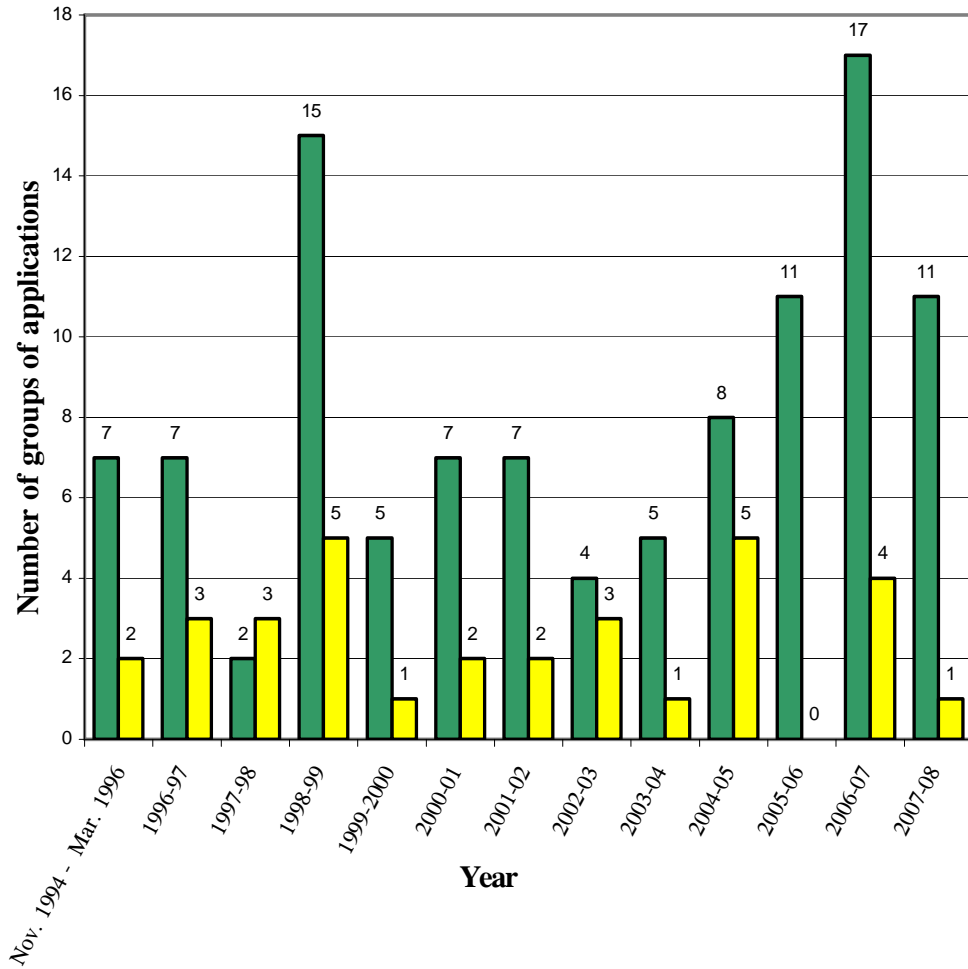
5.42 Since its establishment on 30 November 1994 and up to 31 March 2008, CLAF had considered 106 groups of applications (Note 10) of different categories relating to complaints about real estate, banking services, travel services, telecommunication services, medical services, beauty services, sale of goods, etc. Assistance was granted to 32 groups of applications. Details are given in Figure 2.

Note 9: *It is common that even in a successful case, the Court may not order the opponent party to pay the full legal costs actually incurred by the successful party. The CC therefore considers it necessary to deduct from the damages awarded to assisted consumers such difference between the actual costs incurred and the amount recovered, subject to the condition that in a successful case the assisted consumer should be able to recover at least 75% of the damages/benefit awarded by the Small Claims Tribunal or 50% by other courts.*

Note 10: *The number of cases involved in each group of application(s) ranged from 1 to 406. The 106 groups of applications involved a total of 715 cases.*

Figure 2

CLAF applications and assistance granted
(November 1994 to March 2008)



- Legend:
- Number of groups of applications considered
 - Number of groups of applications to which assistance was granted (including applications brought forward from the previous year)

Source: Audit analysis of CC records

Audit observations and recommendations

Need to publicise successful CLAF cases

5.43 Audit noted that the CC reported the details of the assisted cases in the CC's annual reports and from time to time, released information about appropriate successful CLAF cases through the media (e.g. the press and radio). To enhance the CLAF's aims of deterring business malpractices and enhancing public awareness of their consumer rights, Audit considers that the CC may consider issuing press releases from time to time and to report in the CHOICE magazine cases of successful claims against unscrupulous traders.

Need to conduct a review of CLAF

5.44 At the FC meeting of November 1994 approving the establishment of CLAF, Members asked that an overall review on the operation of CLAF should be conducted one year after CLAF commenced operation. In March 1996, an information paper on the outcome of a review of CLAF after one year of its operation was submitted to the then Panel on Trade and Industry of the Legislative Council. The review indicated that, in general, public reaction to CLAF had been positive. In recent years, the CC had conducted a number of operational reviews for the enhancement of operation effectiveness of CLAF. However, the CC had not conducted any strategic review of CLAF to ascertain the effectiveness of CLAF in achieving its intended objectives. Since CLAF had been operating for more than 13 years, **Audit considers it necessary for the CC to conduct a strategic review of CLAF, with a view to ascertaining its effectiveness in achieving its intended objectives, and identifying areas for improvement.**

Need to recover administration costs from CLAF

5.45 According to the FC paper of November 1994, it was stated that CLAF was intended to be self-financing (see para. 5.41) and CLAF would pay administration costs to the CC. The Trust Deed for CLAF also states that CLAF shall be charged the cost of administration, including the salaries and fees for the appointment of staff. **However, Audit noted that since the establishment of CLAF in 1994, the CC had not charged CLAF any administration costs. In fact, the CC had not laid down the basis on which administration costs were to be recovered from CLAF. Audit considers the non-recovery of administration costs is not consistent with the original intention that CLAF should be self-financing (see para. 5.41). Audit considers that the CC need to review the need for charging CLAF administration costs.**

Preparation of estimates of income and expenditure for CLAF

5.46 According to the Trust Deed for CLAF, the Trustee shall in each financial year adopt estimates of income and expenditure for the ensuing financial year and shall forward the estimates to the Permanent Secretary for Commerce and Economic Development (Commerce, Industry and Tourism) before a date appointed by the Permanent Secretary. **Audit noted that, since the establishment of CLAF, no estimates of income and expenditure for CLAF had been submitted in accordance with the Trust Deed.** In

response to Audit's enquiry, the CC referred the matter to the BA of CLAF for discussion on 10 June 2008. The BA noted that the CLAF's income and expenditure depended very much on the number of assisted cases, the way in which the cases would be conducted, and the outcome of the court hearing or trial. As all these factors were subject to unpredictable circumstances, it would be extremely difficult to give a realistic or accurate financial estimate. The BA resolved that CLAF should seek consent from the Secretary for Commerce and Economic Development for the deletion of the relevant clause regarding the submission of estimates of income and expenditure of CLAF in the Trust Deed. In response to the CC's request, the Secretary for Commerce and Economic Development agreed on 11 July 2008 to delete the relevant clause in the Deed.

Audit recommendations

5.47 **Audit has recommended that the CC should:**

- (a) **consider further enhancing the publicity of successful CLAF cases (e.g. to report in the CHOICE magazine and on the CC's website cases of successful claims against unscrupulous traders);**
- (b) **consider conducting a strategic review of CLAF, with a view to ascertaining the effectiveness of CLAF in achieving its intended objectives, and identifying areas for improvement;**
- (c) **review the need for charging CLAF administration costs, and establish a charging basis if it is decided that administration costs should be charged; and**
- (d) **ensure that the provisions of the Trust Deed are followed.**

Response from the Consumer Council

5.48 The CC accepts the audit recommendations. The CE, CC has said that:

- (a) regarding the charging of administration costs, the CC thanks Audit for its comments which help the CC reconsider the matter from another perspective;
- (b) all along, the CC has been cautious to maintain a strong financial reserve for ensuring access to CLAF by justified cases and to guard against the risks of skyrocketing of expenditure on legal costs. The financial situation of CLAF has been stable in recent years and the issue of administration costs has also been discussed at SFC meetings; and
- (c) in response to Audit's comment, the issue was revisited by the SFC at its meeting held on 8 September 2008. It was resolved that starting from the financial year 2008-09, the CC would charge CLAF for the cost of administration on the basis to be formulated after deliberation. The decision was later endorsed by the Council at its meeting held on the same day.

PART 6: PERFORMANCE MANAGEMENT

6.1 This PART examines the performance management of the CC and reports the areas where improvements can be made.

Performance targets of the Consumer Council

6.2 A good performance management system helps an organisation improve its efficiency and quality of services. The setting of performance targets is an integral part of performance management. Performance targets should be set wherever possible as they improve clarity of expectations, motivate performance, and improve accountability.

6.3 In its COR for 2008-09, the CEDB set out relevant performance targets in respect of protection and promotion of consumer interests. The CC also promulgated its performance targets. The CC's performance targets can be accessed on its website, or obtained by fax through its hotline.

Audit observations and recommendations

Different performance targets promulgated by the CEDB and the CC

6.4 Audit examined the three sets of targets of the CC promulgated in the CEDB's COR, on the CC's website, and through the CC's fax service hotline. Audit noted that the three sets of targets were different from each other (see Appendix H). **The CC needs to ensure that the same set of performance targets is disseminated to the public through all channels.**

Performance targets for handling written consumer complaints

6.5 In the 2008-09 COR of the CEDB, it was stated that in calculating the response time for handling written consumer complaints, the date of receipt of complaints was redefined in 2007. Before 2007, the calculation of the response time started from the receipt of the complaint. With effect from 2007, the calculation of response time starts from the date when the complainant has provided all the necessary information for processing. Audit noted that as a result of the change in the calculation method, the response time was greatly reduced. The actual number of working days achieved in 2007 and the planned number of working days for 2008 to issue preliminary replies to the complainants were both 5 days, but the target remained unchanged at 7 days. The actual number of working days achieved in 2007 and the planned number of working days for 2008 to notify complainants of results or progress were both 14 days, but the target remained unchanged at 27 days. Audit considers that, as the calculation method has changed, the CC needs to consider revising the targets concerned accordingly.

Reporting of performance information

6.6 Audit reviewed the CC's performance reporting for 2007 and found that there was room for improvement in the following areas:

- (a) ***Answering telephone calls.*** According to CEDB's COR for 2008-09, the CC achieved the target for 2007 that 80% of consumer telephone enquiries and complaints were answered within three minutes. Audit noted that when a telephone call was not answered by a CC staff, the caller would be prompted to activate a voicemail system, which would request the caller to leave a message so that CC staff could follow up later. Audit examined the management reports produced by the hotline system of the CC for the period October to December 2007 and noted that a large proportion (about 70%) of calls were actually answered by the voicemail system, instead of by CC staff. Audit considers that the CC should consider revising the target for answering telephone calls. In response to the audit observations, the CC informed Audit in September 2008 that the CAD could handle around 500 calls per day provided that no staff was on holiday and there were not too many visitors to the CACs for enquiry or lodging consumer complaints in person. However, on an average Monday and after the publication of the CHOICE magazine, CC staff had to handle more than 2,000 calls, of which over 1,500 were voicemails which required CC's reply;
- (b) ***Waiting time for over-the-counter enquiry service.*** According to the 2008-09 COR, the CC achieved the target for 2007 that the waiting time for over-the-counter enquiry service did not exceed ten minutes. However, documentary evidence was not available to support the CC's calculation of the waiting time. The CC did not have a mechanism in place for recording the required management information on waiting time; and
- (c) ***Issuing preliminary replies for complex cases of written enquiries.*** According to the 2008-09 COR, the CC achieved the 2007 target of issuing preliminary replies for written enquiries in six working days. The CC calculated the actual number of working days by using a sample of ten written enquiries. Audit reviewed the ten enquiries and found that the sample included nine enquiries received through e-mail or the CC's website. For these enquiries, the CC's computer system generated an acknowledgement on the same day and the CC took these acknowledgements as the preliminary reply. For the remaining enquiry, the CC did not issue a preliminary reply because it was received through fax and it was the practice of the CC that preliminary replies would not be issued for enquiries received through fax. Audit considers that the sample of ten written enquiries was too small and might not be representative of all the written enquiries received by the CC.

Audit recommendations

- 6.7 **Audit has recommended that the CC should:**
- (a) **ensure that the same set of performance targets is disseminated to the public through all channels;**
 - (b) **consider revising the targets for the response time for handling written consumer complaints, taking into account the change in the method of calculating the response time;**
 - (c) **consider revising the target for answering telephone calls. For example, those calls answered by the voicemail system may be excluded, or a target percentage of calls actually answered by CC staff may be set;**
 - (d) **devise a system to ascertain the actual performance in respect of the waiting time for over-the-counter enquiry service; and**
 - (e) **expand the sample of written enquiries for measuring the achievement of the target on issuing preliminary replies for complex cases of written enquiries.**

Response from the Consumer Council

- 6.8 The CC accepts the audit recommendations. The CE, CC has said that:
- (a) the CC will ensure that the same set of performance targets is disseminated to the public through all channels. It is in the process of making the necessary revisions;
 - (b) the CC will revise the performance targets for handling written consumer complaints, and notify the CEDB accordingly;
 - (c) the CC will examine the voicemail system and review the target for answering telephone calls. It will consider setting a target percentage of calls actually answered by CC staff, provided that additional resources can be allocated for taking the improvement measures (see para. 6.6(a));
 - (d) the CC will review the target on waiting time for over-the-counter enquiry service, as well as actively consider measures to assess the waiting time; and
 - (e) as the existing computer system does not provide for an automatic performance measure system, the performance measurement is done by drawing samples from the written enquiries. With the introduction of a new computer system, it is

hoped that various functions of workflow control, status reporting, progress monitoring, standard letter generation, case escalation and performance monitoring will be greatly enhanced. The CC has taken note of the audit observations in paragraph 6.6(c) and will issue acknowledgements to all written enquiries.

User satisfaction survey

6.9 User satisfaction survey is an important tool for performance management. It can help an organisation:

- (a) find out what users think about the services provided by the organisation;
- (b) identify areas for improvement; and
- (c) ensure that the quality of its services meets user expectations.

Audit observations and recommendations

6.10 Audit noted that the CC conducted a user satisfaction survey for its CACs in 1982. In response to Audit's enquiry as to whether any user satisfaction surveys had been conducted on CC's services since then, the CC said in September 2008 that:

- (a) the CC was always proactive in responding to public views and expectations, and strived its best to improve its diverse range of work. The recent publication about credit cards was a good example of its quick response to the requests of the public in clarifying the handling charges and minimum spending limit for the use of credit cards;
- (b) the CC was also mindful of the need to solicit views of the public/users towards its various areas of service. For instance, in order to measure customer satisfaction with the CHOICE magazine, focus group discussions and user surveys were organised periodically. Furthermore, online surveys would be conducted shortly to obtain consumer feedback on its online CHOICE and the new "Shopsmart" website for Mainland tourists. The CC also periodically reviewed the accessibility and popularity of its website;
- (c) as for CC's work in product testing and research, feedback was collected from various sources from time to time, in order to keep up with the uppermost concerns of the consumers;

- (d) in developing the latest 3-year Strategic Plan in 2005, the CC had engaged an external consultant to assist and approach key stakeholders for their views through interviews or through focus group discussions. The parties involved included government bureaux and departments, public organisations, non-governmental organisations, chambers of commerce, industry and professional associations, opinion leaders, media, academia, educators, CHOICE subscribers, and complainants. The scope of discussion and consultation included CC's image, missions and goals, performance, and future directions; and
- (e) in addition to what it had done over the years, the CC would consider conducting user satisfaction surveys with a view to improving its services.

6.11 Audit noted that, since the 1982 survey (see para. 6.10), the CC had not conducted any user satisfaction surveys on its CAC services. The CC also had not conducted user satisfaction surveys periodically to cover all its key services provided under the CC Ordinance (see para. 1.3). In recent years, there have been a lot of developments about consumer protection in Hong Kong. There have also been growing public expectations for better consumer protection. To help the CC adapt to the changing environment, Audit considers that the CC should consider periodically conducting user satisfaction surveys to find out how it can improve its services to meet public expectations.

Audit recommendations

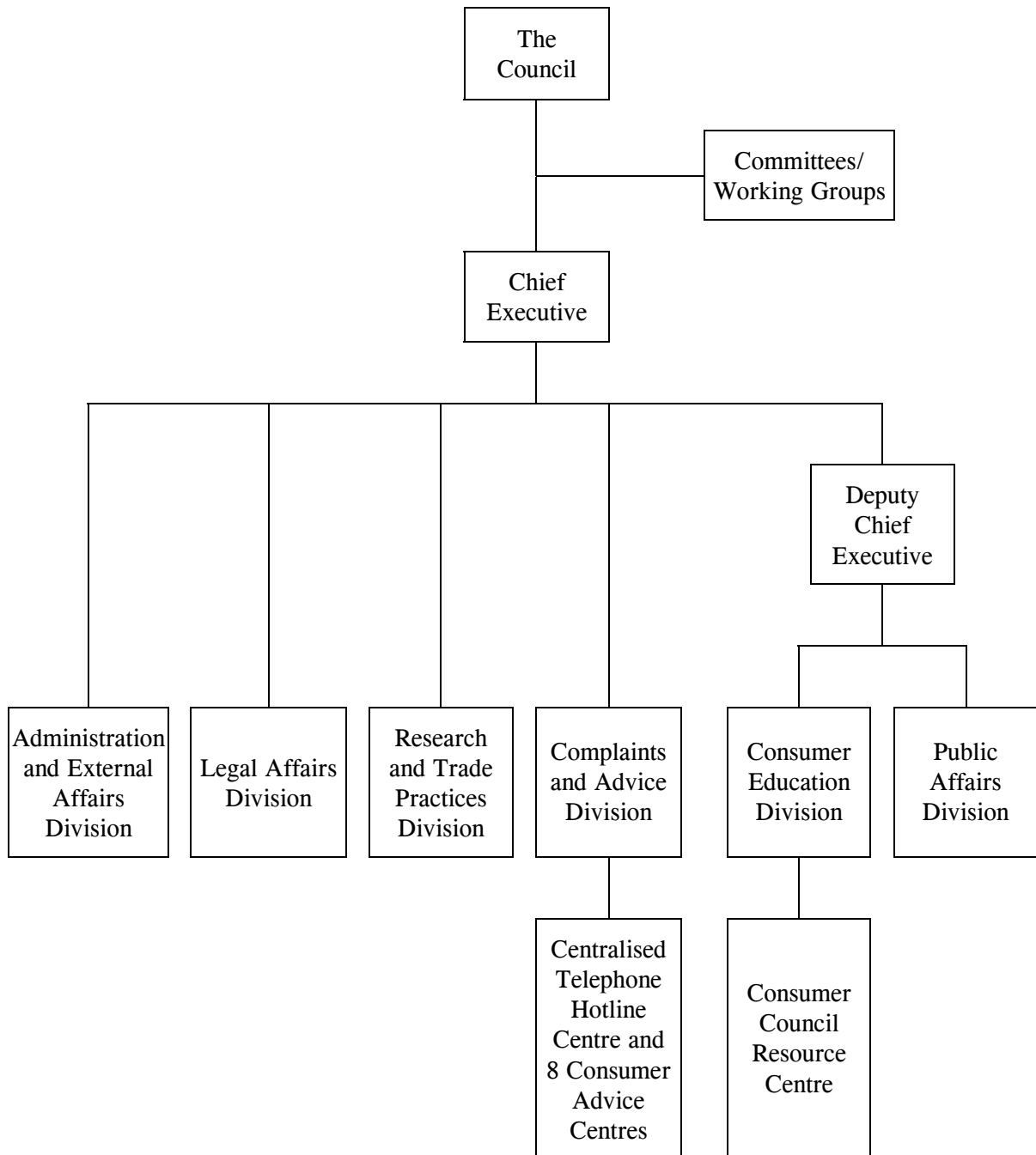
6.12 **Audit has recommended that the CC should:**

- (a) **conduct user satisfaction surveys periodically to cover all its key services; and**
- (b) **having regard to the findings in the user satisfaction surveys, take measures to improve its services with a view to enhancing the satisfaction level of the consumers.**

Response from the Consumer Council

6.13 The CC accepts the audit recommendations. The CE, CC has said that, in addition to what it has done over the years (see para. 6.10), the CC will consider conducting user satisfaction surveys periodically with a view to improving its services.

**Consumer Council
Organisation chart
(1 April 2008)**



Source: CC records

Consumer Council's Committees and their functions

1. Audit Committee

- (a) to review the adequacy of internal control measures as well as transparency in financial reporting;
- (b) to ensure the above systems are in compliance with the relevant policies, rules and regulations;
- (c) to make recommendations to the Council on the appointment of auditors and to review the audited annual financial accounts submitted by the auditors;
- (d) to monitor the executive decisions of the management of the CC in relation to the mission and strategic directions set by the Council;
- (e) to review the risk management policies of the CC; and
- (f) to enlist outside resources if necessary for the purpose of carrying out the above review and function.

2. Competition Policy Committee

- (a) to play an active role in advocating competition;
- (b) to publish reports on competition issues of public importance;
- (c) to receive complaints from the public and companies on matters related to competition and to draw the attention of the Competition Policy Advisory Group to those complaints that merit action or further consideration;
- (d) to respond to invitations from the Competition Policy Advisory Group to assist it in its work;
- (e) to respond to consultation papers issued by the Government and other public bodies;
- (f) to meet delegations and to receive representations by interested groups relating to competition; and
- (g) to monitor prices in sectors of particular importance such as the supply of motor fuel.

3. Consumer Complaints Review Committee

- (a) to review and advise on the resolution of complicated individual complaint cases from individual consumers;

- (b) to examine issues arising from consumer complaints which have drawn wide public/media attention;
- (c) to review cases where complainants are not satisfied with the outcome and/or the way in which CC staff have handled their complaint; and
- (d) to review the CC's consumer complaints handling procedures as and when necessary.

4. Legal Protection Committee

- (a) to advise the Council on matters relating to the legal rights and protection of consumers;
- (b) to review the working of consumer protection legislation in Hong Kong;
- (c) to look at consumer protection legislations in other territories and to examine the feasibility of making similar provisions in Hong Kong;
- (d) to explore the feasibility of introducing Class Action/Consumer Representative Action in Hong Kong; and
- (e) to formulate and to submit recommendations through the Council to the Government to amend and/or to enact legislation to protect consumers.

5. Publicity and Community Relations Committee

- (a) to monitor the planning and implementation of the CC's publicity and community relations matters;
- (b) to monitor the production and marketing activities of "CHOICE" and other publications;
- (c) to consider matters pertaining to the operation and development of Consumer Advice Services;
- (d) to advise on matters pertaining to consumer education including production of publicity materials and organisation of publicity campaigns; and
- (e) to advise the Council on community relations and international liaison matter.

6. Research and Testing Committee

- (a) to advise the Council on matters pertaining to the testing and survey projects on consumer products and services, including the scope of project and budgetary matters;
- (b) to review the test and survey results as well as comments from manufacturers, agents, experts, consultants, etc. in respect of these results;
- (c) to examine issues affecting the health and safety of consumers;

- (d) to review the annual work plan and estimated budget for product testing and survey projects; and
- (e) to make recommendations to the Council on actions to be taken in this programme area.

7. Staff and Finance Committee

- (a) to formulate policy pertaining to the annual budget of the CC;
- (b) to monitor and approve the income and expenditure account of the CC;
- (c) to consider the conditions of service and any disciplinary or other staff management matters and to take/recommend appropriate action;
- (d) to approve/endorse the appointment, confirmation, renewal of contracts, award of annual increment, etc. of the staff of the CC as the case may be; and
- (e) to receive and deal with complaints against staff of the CC.

8. Trade Practices Committee

- (a) to examine the practices and advertisements of individual traders and, where these are unacceptable, to secure an end to the practices or to “name” the trade in order to warn consumers;
- (b) to examine practices that are prevalent in a trade to see whether they operate against the interests of consumers;
- (c) to improve the treatment of consumers by:
 - (i) contributing to the development of codes of practice and standards of professional and trade bodies;
 - (ii) responding to consultation papers; and
 - (iii) overseeing the CC’s participation in voluntary redress scheme;
- (d) to advise the Legal Protection Committee on issues relating to trade practices where there may be a need for new or amended legislation; and
- (e) to meet delegations and to receive representations by interested groups relating to trade practices.

Source: CC records

**Attendance rates of Council/Committee meetings
(2002 to 2007)**

	2002	2003	2004	2005	2006	2007	Average
Council meeting	71%	73%	68%	74%	72%	67%	71%
Committee meeting							
Audit Committee (set up on 8 November 2004)	—	—	—	88%	50%	100%	79%
Competition Policy Committee	56%	67%	57%	67%	53%	71%	62%
Consumer Complaints Review Committee	100%	70%	73%	100%	100%	100%	91%
Legal Protection Committee	71%	87%	60%	53%	74%	67%	69%
Publicity and Community Relations Committee	70%	66%	60%	63%	66%	64%	65%
Research and Testing Committee	61%	47%	58%	58%	73%	63%	60%
Staff and Finance Committee	67%	73%	78%	85%	64%	83%	75%
Trade Practices Committee	55%	63%	79%	67%	56%	64%	64%

Source: CC records and Audit analysis

**Approval of annual estimates and programme of activities
(2002-03 to 2008-09)**

Year	Income and expenditure estimates			Programme of activities submitted to Government (Yes/No)
	Date of submitting estimates to Government (Note 1)	Date of SFC meeting discussing estimates (Note 2)	Time elapsed between submitting estimates to Government and to SFC	
2002-03	19/10/2001	13/5/2002	206 days	Yes (Note 3)
2003-04	29/11/2002	12/5/2003	164 days	Yes (Note 3)
2004-05	28/11/2003	8/3/2004	101 days	Yes (Note 3)
2005-06	29/10/2004	8/11/2004	10 days	Included in the Controlling Officer's Report (Note 4)
2006-07	21/10/2005	14/11/2005	24 days	
2007-08	19/10/2006	14/11/2006	26 days	
2008-09	11/12/2007	28/11/2007	—	

Source: CC records and Audit analysis

Note 1: The 2002-03 estimates were approved by the Government on 31 October 2001 pursuant to section 15 of the CC Ordinance. However, Audit could not find evidence showing that the annual estimates for the years 2003-04 to 2008-09 had been approved by the Government pursuant to section 15 of the CC Ordinance.

Note 2: The annual estimates were tabled/endorsed at the SFC meetings. Issues arising from the estimates discussed by the SFC were reported to the Council at its meetings immediately following the SFC meetings.

Note 3: The programmes of activities for the years 2002-03 to 2004-05 were submitted to the Government without having been discussed or adopted by the Council.

Note 4: Since 2005-06, details of the CC's programmes of activities have been included in the Controlling Officer's Report. There was no separate submission of the CC's programme of activities (see para. 2.28(b) and (c)).

Appendix E
(para. 3.23 refers)

**Special approval for full-pay sick leave taken in excess of entitlements
(1 January 2005 to 2 May 2008)**

Case	Sick leave requiring special approval	No. of sickness days covered by the approval	Date of approval by CE
1 (Note 1)	Leave taken intermittently between 27/10/2004 and 21/6/2006	21.5	31/7/2006
2	22/2/2005 p.m. to 5/3/2005	11.5	30/6/2005
3	11/3/2005, 31/3/2005, 18/4/2005, 26/4/2005, 11/5/2005, 18/5/2005 and 24/5/2005	7.0	30/6/2005
4	Leave taken intermittently between 3/1/2006 p.m. and 3/1/2007	10.0	9/2/2007
5	4/3/2006 to 6/3/2006	3.0	27/3/2006
6	14/3/2006 and 27/3/2006	2.0	22/6/2006
7	26/6/2006 to 24/7/2006	29.0	31/7/2006
8	28/11/2006, 4/12/2006, 8/12/2006, 8/1/2007, 9/1/2007 and 12/1/2007 p.m.	5.5	31/1/2007
9	25/1/2007 p.m., 5/2/2007, 13/2/2007, 23/2/2007 a.m. and 19/3/2007	4.0	9/5/2007
10	6/8/2007 to 24/8/2007	19.0	4/9/2007
11	28/10/2007 to 31/10/2007 and 1/11/2007 to 21/11/2007	25.0	12/12/2007
12	21/11/2007 p.m. to 7/12/2007	16.5	15/2/2008

Appendix E
(Cont'd)
(para. 3.23 refers)

Case	Sick leave requiring special approval	No. of sickness days covered by the approval	Date of approval by CE
13	15/12/2007 p.m. to 21/12/2007	6.5	27/2/2008
14	9/2/2008 to 2/5/2008	84.0	6/5/2008 (Note 2)
15	25/3/2008, 26/3/2008 and 1/4/2008 p.m.	2.5	7/5/2008

Source: CC records

Note 1: This case is included because the period covered by the special approval falls within the period 1 January 2005 to 2 May 2008 reviewed by Audit.

Note 2: This case was brought to the attention of the SFC on 6 May 2008. The SFC decided not to grant special approval for this case.

Guidelines on planning, execution and evaluation of research and testing projects

- (a) ***Selection of topics.*** Research and testing projects are initiated under the following circumstances:
- (i) ***Regular projects.*** Certain price surveillance projects (e.g. supermarket price surveys and textbook surveys) are conducted on an annual basis. Product tests on major appliances such as air conditioners (once every two years) and washing machines (once every few years) are conducted regularly because they are widely used by consumers. Follow-up studies or updating on some consumer electronics with short product life cycles are also conducted regularly;
 - (ii) ***Staff initiation.*** Project proposals are initiated by staff from time to time on topics which may be of interest/concern to consumers; and
 - (iii) ***Other suggestions.*** Suggested topics for research and product testing are made from time to time by consumers, media, the Government, quasi-government bodies, and the CC's overseas counterparts;
- (b) ***Approval of project proposals.*** Project proposals describing the project objectives and scope, test programmes, selection of laboratories/research institutes, estimated project costs and time schedule on the following types of projects are submitted to the RTC for approval:
- (i) projects for which a budget has to be approved by the RTC;
 - (ii) projects where a comparison of brands will be published; and
 - (iii) projects where there is no comparison of brands but involve sensitive issues (e.g. health foods and traditional complementary medicines survey);
- (c) ***Obtaining comments from stakeholders before reports are finalised.*** For product tests, laboratory test reports or data checking sheets containing all relevant technical test results are sent to manufacturers or their local agents for comments. Important information concerning the test results from manufacturers should be addressed properly. For many projects, comments from experts and/or government authorities are needed. They should be consulted in good time, well before the report is finalised; and
- (d) ***Approval of reports by the RTC before publication.*** Draft reports to be published are submitted to the RTC for approval before publication.

Source: CC records

**Accumulated surplus of the Consumer Legal Action Fund
(31 March 2008)**

	Amount (\$ million)
Income for the period 30 November 1994 to 31 March 2008	
Investment income	8.09
Application fee from assisted consumers	0.15
Contributions from assisted consumers, fees recovered and other miscellaneous income	1.78
	<hr/>
	10.02
	<hr/>
Expenditure for the period 30 November 1994 to 31 March 2008	
Legal fees for assisted consumers	3.71
Auditor's remuneration and sundry expenses	0.24
	<hr/>
	3.95
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Accumulated surplus as at 31 March 2008	6.07
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Source: CC records

Performance targets

	Targets		
	In 2008-09 COR of CEDB	On CC's website	Disseminated by CC's fax service
Handling consumer enquiries			
(a) telephone calls	80% answered within 3 minutes	Answered immediately	Answered immediately
(b) waiting time for over-the-counter enquiry service	100% not to exceed 10 minutes	10 minutes	10 minutes
(c) in writing			
(i) issuing acknowledgement	Not set	Not set	1 week
(ii) issuing preliminary reply for complex cases	6 working days	5 working days	Not set
(iii) issuing reply	7 working days for simple cases 1-3 weeks for complex cases	7 working days for simple cases 1-3 weeks for complex cases	3-4 weeks
Handling consumer complaints			
(a) telephone calls	80% answered within 3 minutes	Answered immediately	Not set
(b) in writing			
(i) issuing acknowledgement	2 working days	2 working days	7 working days
(ii) issuing preliminary reply	7 working days	7 working days	Not set
(iii) notifying complainants of results and progress	27 working days	27 working days	21 working days

Source: CEDB and CC records

Acronyms and abbreviations

AGIS	Advisory Group on Investment Strategy
Audit	Audit Commission
BA	Board of Administrators
CAC	Consumer Advice Centre
CAD	Complaints and Advice Division
CC	Consumer Council
CCAO	Chief Complaints and Advice Officer
CCSR	Consumer Council Service Regulations
CE	Chief Executive
CEDB	Commerce and Economic Development Bureau
CLAF	Consumer Legal Action Fund
COR	Controlling Officer's Report
FC	Finance Committee
HKSAR	Hong Kong Special Administrative Region
MAA	Memorandum of Administrative Arrangements
MC	Management Committee
RTC	Research and Testing Committee
SFC	Staff and Finance Committee