

Report No. 51 of the Director of Audit — Chapter 3

CONSUMER COUNCIL: CORPORATE GOVERNANCE AND PROTECTING AND PROMOTING CONSUMER INTERESTS

Summary

1. The Consumer Council (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. 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. To assist consumers in taking legal action against unscrupulous traders, the Consumer Legal Action Fund (CLAF) was set up in November 1994 with the CC as trustee. The governing body of the CC is its Council. According to the CC Ordinance, the Council shall appoint a person to hold office as its chief executive (CE). The CC is funded mainly by recurrent subventions from the Government. In 2007-08, the government subvention of \$67.6 million accounted for 94% of the CC's income. As at 1 April 2008, the CC had an establishment of 137 staff. The Audit Commission (Audit) has recently conducted a review of the CC.

Corporate governance

2. ***Governance of the Consumer Council.*** Eight Committees were established to oversee various aspects of the CC's operations. Audit's examination revealed that in 2002 to 2007, 14 of 178 Committee meetings were held without a quorum. In 2006-07 and 2007-08, 12 of 101 discussion papers for Council meetings, and 69 of 341 discussion papers for Committee meetings were distributed to the members at the meetings, instead of at least five working days before the meetings as stipulated in the CC's guidelines. Moreover, the CC does not require Council/Committee members to declare interests when they are reappointed. Annual declarations are also not required. *Audit has recommended that the CC should: (a) ensure that Committee meetings are held only when there is a quorum; (b) endeavour to distribute papers to members at least five working days before Council/Committee meetings; and (c) require Council/Committee members to make declarations of interests when they are appointed or reappointed, and also annually thereafter.*

3. ***Management of government subventions to the Consumer Council.*** 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. Moreover, the minutes of the relevant Council meetings did not indicate that the annual estimates had been adopted by the Council as required by the CC Ordinance. Since 2005-06, the CC's programme of activities had not been prepared and submitted to the Government as required

by the CC Ordinance. *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 to the Government for approval together with the programme of activities. Audit has also recommended that the Secretary for Commerce and Economic Development should ensure that the estimates of the CC are properly approved.*

4. **Strategic management.** Audit noted that the planning period covered by the CC's Strategic Plan was three years. To provide effective strategic direction for future development, it is necessary for the CC to regularly review and update the Strategic Plan within the 3-year planning period. Audit also noted that the CC did not prepare an annual business plan for implementing its strategic objectives. *Audit has recommended that the CC should: (a) improve the strategic planning process by conducting regular reviews of the Strategic Plan within the 3-year planning period; and (b) draw up an annual business plan to ensure that the Strategic Plan is effectively translated into operational plans and budgets.*

Human resource management

5. **Review reports on senior staff remuneration packages.** According to the Government's guidelines promulgated in March 2003, the CC should review the number, ranking and remunerations of its senior staff and submit to the Government annual reports on the review findings. 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 Commerce and Economic Development Bureau (CEDB) in August 2008. Moreover, 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. *Audit has recommended that the CC should: (a) submit annual review reports on a timely basis; and (b) work out with the CEDB suitable arrangements for public disclosure of the review reports.*

6. **Staff recruitment.** Audit examined 7 of the 13 recruitment exercises conducted in 2007-08 and found that some important information of the recruitment exercises (e.g. the responsible officers and the shortlisting criteria) was not properly documented. *Audit has recommended that the CC should properly document all the key information of recruitment exercises.*

7. **Performance appraisal.** Audit reviewed the performance appraisal reports for 15 staff relating to the period from January 2002 to June 2008. Audit noted that for 3 staff, a period of one year was not covered by any appraisal report. In all the 15 cases, it could not be ascertained from the appraisal reports whether appraisal interviews had been conducted. *Audit has recommended that the CC should ensure that: (a) all periods of employment for all staff are covered by performance appraisals; and (b) staff appraisal interviews are conducted and documented in the appraisal reports.*

8. **Management of sick leave.** According to the Consumer Council Service Regulations (CCSR), in any period of 30 months, staff may be granted a maximum of 56 days' sick leave on full-pay. The CE may grant special approval for an extension beyond the normal limit of full-pay sick leave. Audit noted that, because of the differences between the entitlements specified in the Employment Ordinance (Cap. 57) and the CCSR, three staff had been paid sickness allowances which were less favourable than those provided under the Employment Ordinance. Moreover, in a number of cases, the special approval for full-pay sick leave was not given promptly after the full-pay sick leave entitlements were exceeded. *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.*

Administrative issues

9. **Management of investment.** Audit's examination of fixed deposits placed by the CC in 2007-08 revealed that the CC did not follow its investment strategy of obtaining quotations from four banks on the authorised list by rotation when new funds were to be placed in fixed deposits. Almost all quotations (except one) were obtained from the same four banks. For six new fixed deposits, the CC obtained quotations from less than four banks. Audit also found that, contrary to the investment strategy, there were 11 deposits where the placing of these deposits resulted in the maximum exposure in a bank exceeding 50% of the CC's total money available for investment. *Audit has recommended that the CC should ensure that when placing fixed deposits with banks, all the requirements specified in its investment strategy are complied with.*

10. **Procurement matters.** The CC did not specify an amount exceeding which open tendering procedures should be adopted. According to the CC's procurement procedures, procurement requisitions for goods and services should be endorsed before they are purchased. Of the 25 procurements examined by Audit, the requisitions for 4 procurements were endorsed by the Head of Divisions after the goods/services were purchased. For 5 procurements, the required number of quotations stipulated in the CC's Procurement Guidelines were not obtained. Furthermore, two procurements were not approved by the proper authorities. *Audit has recommended that the CC should: (a) consider adopting open tendering for procurements of large amounts; and (b) ensure that staff strictly comply with the CC's Procurement Guidelines and procurement procedures.*

11. **Business travel expenses.** Audit noted that in 2007-08, contrary to its Procurement Guidelines and procurement procedures, the CC procured all the air tickets for business travels from the same travel agent without obtaining any quotations from other agents. *Audit has recommended that the CC should ensure that its Procurement Guidelines and procurement procedures are complied with in procuring air tickets for business travels.*

Protecting and promoting consumer interests

12. **Product tests and consumer surveys.** Audit noted that in February 2006, the publication of a research project on bank interest rate had generated controversy. Audit considers that a controversy would not be conducive to helping the public make an informed decision. *Audit has recommended that the CC should: (a) for a complex project involving sensitive issues of great public interest, submit the project proposal to its Research and Testing Committee for approval; and (b) for a complex and technical subject, consider the need for engaging consultants to assist it in planning and conducting the project.*

13. **Price surveys.** Audit noted that a bi-weekly survey exercise was launched by the CC in May 2008. In July 2008, the CC announced its plan to launch three price surveillance projects. 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 the price surveillance projects 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 has recommended that the CC should: (a) incorporate price surveillance as a strategic objective in its Strategic Plan; (b) regularly evaluate the effectiveness of the price surveillance projects; and (c) regularly collect user feedback on the usefulness of the price surveys.*

14. **Handling complaints.** The CC promulgated a set of procedures for the handling of consumer complaints against traders. Audit noted that in some cases, the CC did not follow the procedures for handling complaints. *Audit has recommended that the CC should ensure that its staff comply with the procedures for handling consumer complaints.*

15. **Encouraging responsible trade practices.** Audit considers that the success of the Beauty Industry Code of Practice issued by the CC in June 2006 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. According to the CC's 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 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). *Audit has recommended that the CC should: (a) provide information to consumers regarding the operators in the beauty industry which have adopted the Beauty Industry Code of Practice; and (b) consider the need to accord priority to formulating more codes of practice.*

16. **Administration of the Consumer Legal Action Fund.** To enhance the CLAF's aims of deterring business malpractices and enhancing public awareness of their consumer rights, Audit considers that the CC may issue press releases from time to time and report in the CHOICE cases of successful claims against unscrupulous traders. 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. In recent years, the CC had not conducted any strategic review of CLAF to ascertain the effectiveness of CLAF in achieving its intended objectives. According to the Finance Committee paper of November 1994, it was stated that CLAF was intended to be self-financing 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. However, Audit noted that since the establishment of CLAF in 1994, the CC had not charged CLAF any administration costs. *Audit has recommended that the CC should: (a) consider further enhancing the publicity of successful CLAF cases; (b) consider conducting a strategic review of CLAF; and (c) review the need for charging CLAF administration costs.*

Performance management

17. ***Performance targets of the Consumer Council.*** Audit noted that the three sets of performance targets of the CC promulgated in the CEDB's Controlling Officer's Report, on the CC's website, and through the CC's fax service hotline were different from each other. The calculation method for response time for handling written consumer complaints was changed in 2007, but the CC did not revise the targets concerned accordingly. Audit's examination showed that a large proportion (about 70%) of telephone calls were answered by a voicemail system, which would request the caller to leave a message. Furthermore, documentary evidence was not available to support the CC's calculation of the waiting time for over-the-counter enquiry service. *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 and for answering telephone calls; and (c) devise a system to ascertain the actual performance in respect of the waiting time for over-the-counter enquiry service.*

18. ***User satisfaction survey.*** Audit noted that the CC had not conducted user satisfaction surveys periodically to cover all its key services provided under the CC Ordinance. *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.*

Response from the Consumer Council and the Administration

19. The CE, CC and the Secretary for Commerce and Economic Development accept the audit recommendations.

November 2008