

Report No. 52 of the Director of Audit — Chapter 2

CUSTOMS AND EXCISE DEPARTMENT: ENFORCEMENT WORK OF THE CONSUMER PROTECTION BUREAU

Summary

1. The Government attaches importance to safeguarding the rights and interests of consumers. The Consumer Protection Bureau (CPB) of the Customs and Excise Department (C&ED) is responsible for the enforcement of the Weights and Measures Ordinance (Cap. 68), the Toys and Children's Products Safety Ordinance (TCPSO — Cap. 424), the Consumer Goods Safety Ordinance (Cap. 456), the Trade Descriptions (Marking) (Gold and Gold Alloy) Order (Cap. 362 sub. leg. A) and the Trade Descriptions (Marking) (Platinum) Order (Cap. 362 sub. leg. C).

2. To detect non-compliance with the consumer protection legislation, the CPB conducts spot checks on the accuracy of weights and measures; the safety of toys, children's products and consumer goods; the fineness of precious metals; and the display of precious metals marking notices. In addition, the CPB conducts in-depth investigations in response to specific information from various sources, and to follow up non-compliance detected in its spot checks. In 2008, the CPB conducted about 3,700 spot checks and 1,300 investigations. In 2008-09, the estimated expenditure on consumer protection was \$33.7 million. The Audit Commission (Audit) has recently conducted a review on the enforcement work of the CPB.

Work plans for spot checks

3. According to the C&ED's Trade Controls Work Manual, the CPB has to prepare work plans for spot checks: on the safety of toys, children's products and consumer goods; and on the fineness of precious metals and display of marking notices. Audit notes that:

- (a) *Weights and measures.* In 2008, about 700 spot checks were conducted on the accuracy of weights and measures. However, no work plan was prepared and, unlike other categories, there is no such requirement in the Trade Controls Work Manual;

- (b) **Precious metals.** Although the Trade Controls Work Manual requires work plans to be prepared for spot checks on various enforcement areas, including precious metals, no work plan was prepared for spot checks on the fineness and display of marking notices of precious metals; and
- (c) **Children's products.** Of the 13 types of children's products specified in the TCPSO, two (i.e. baby nests and bunk beds for domestic use) were not included in the quarterly work plans from 2005 to 2008, and there was no documented reason for not including them.

4. *Audit has recommended that the Commissioner of Customs and Excise should: (a) prepare work plans for spot checks on the accuracy of weights and measures, and include such a requirement in the Trade Controls Work Manual; (b) remind his staff to prepare work plans for spot checks on precious metals in compliance with the Trade Controls Work Manual; and (c) in planning spot checks, remind his staff of the need to cover all children's products specified in the TCPSO as far as practicable, and document the reasons if any product types are not covered.*

Time standards for spot checks

5. To help ensure that spot checks are completed on a timely basis, the Trade Controls Work Manual sets out the time standards for completing and evaluating spot checks. Audit examination of the case files of a sample of 120 spot checks completed in 2008 indicated that: (a) 48 (40%) were not completed within the time standard of one week after the commencement of action; and (b) 87 (73%) were not evaluated within the time standard of three days upon the completion of the spot check. In addition, the computerised system for administering spot checks cannot compile statistics to help monitor the progress of spot checks against the time standards. *Audit has recommended that the Commissioner of Customs and Excise should: (a) compile statistics of the actual time taken to complete and evaluate the spot checks; (b) closely monitor the progress of spot checks against the time standards set out in the Trade Controls Work Manual, and document the reasons for non-compliance; and (c) step up measures (including enhancing the management reporting functions of the computerised system) to ensure that spot checks are completed and evaluated efficiently.*

Monitoring of investigations

6. With growing public concerns over consumer rights in recent years, the number of complaints received by the CPB increased from 540 in 2004 to 1,180 in 2008 (i.e. by 119%). The number of outstanding investigation cases also increased by 44% during the period 2004 to 2008. As at 31 December 2008, there were 667 outstanding cases. Audit notes that:

- (a) ***Risk assessment.*** Given the substantial increase in the number of complaints in recent years, the CPB may need to develop a more structured approach to help identify and assess potential violations of consumer protection legislation;
- (b) ***Time standards not met.*** Audit analysis of 2,800 investigation cases completed and evaluated between January 2006 and October 2008 revealed that 828 cases (i.e. 30%) were not completed and 248 cases (i.e. 9%) were not evaluated within the time standards set out in the Trade Controls Work Manual;
- (c) ***Clearance of outstanding cases.*** To help clear the outstanding cases, the C&ED has temporarily redeployed ten staff to the CPB since 13 October 2008. While Audit welcomes the temporary staff redeployment to tackle the problem, the C&ED needs to monitor more closely the clearance of outstanding investigation cases on a regular basis;
- (d) ***Supervisory checks.*** Audit analysis of 91 supervisory checks conducted by the Unit Heads of the CPB in 2008 revealed that only 3 were related to weights and measures, despite the fact that about half of the investigations conducted in 2008 were in this category. In addition, no supervisory checks were conducted on investigations relating to precious metals; and
- (e) ***Store management of test samples.*** In the course of spot checks and investigations, samples of suspected unsafe products are purchased for testing. Tested samples are kept in the C&ED's storerooms. Audit found that, as at September 2008, 431 tested samples had been kept for over 3 years.

7. *Audit has recommended that the Commissioner of Customs and Excise should: (a) develop a more structured approach to help identify and assess potential violations of consumer protection legislation; (b) step up measures to monitor the timeliness of the CPB's investigative action; (c) closely monitor the clearance of outstanding investigation cases on a regular basis and, where necessary, take appropriate action to expedite the clearance; (d) conduct sufficient supervisory checks on investigations relating to weights and measures, as well as precious metals; and (e) remind his staff to conduct disposal exercises for tested samples in accordance with the Stores and Procurement Regulations.*

Updating of safety standards for toys and children's products

8. The TCPSO requires products designed for children to comply with the safety standards set out in the Ordinance. The TCPSO safety standards for toys and children's products, last updated in 1997 and 1998 respectively, are not on a par with the present

relevant international standards. Audit notes that it is the Commerce and Economic Development Bureau's plan to introduce the legislative amendments in the 2009-10 legislative session. *Audit has recommended that the Secretary for Commerce and Economic Development should introduce the legislative amendments as soon as possible.*

Performance measurement

9. Audit reviewed the C&ED's 2008-09 Controlling Officer's Report, and found scope for improvement in the performance reporting of the enforcement work of the CPB. *Audit has recommended that the Commissioner of Customs and Excise should consider setting performance targets for the CPB, and developing performance indicators that measure the outcome and productivity of its enforcement work.*

Response from the Administration

10. The Administration agrees with the audit recommendations.

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