



"No Fakes Pledge" Scheme Hearing Panel

Membership of UTRY

**(Address: Room 09-13, 16/F, Gala Place, 56 Dundas Street, Mong Kok, Kowloon)
under the "No Fakes Pledge" Scheme**

Decision

Background of Member:

1. UTRY ("the member company") is a member of the Hong Kong Retail Management Association ("the Association"). It was granted membership under the "No Fakes Pledge" Scheme 2024 ("the Scheme") by the Association on 15 December 2023.

Course of Event:

2. The Customs and Excise Department ("the Customs") conducted an anti-counterfeit operation against the member company on 4 December 2024 and seized a batch of suspected counterfeit sneakers and clothes ("the goods involved") in its shop.

3. As the member company was suspected of having breached a condition stated in the Code of Conduct of the Scheme, namely to refrain from selling or dealing in counterfeit and pirated goods, the Association issued a written notice to the member company by email and speed post on 9 December 2024, stating the reasons for the intended suspension or termination of its membership under the Scheme and that a hearing would be held on the case.

4. The hearing was scheduled for 10:00 a.m. on 13 December 2024.

5. The member company returned a completed reply slip to the Association on 11 December 2024, indicating that it would not attend the hearing but would submit its representations in writing before the hearing.

6. The member company submitted written representations to the Association by email on 13 December 2024.

Written Representations by the Member Company:

7. The salient points of the written representations made by Mr. Ray LAI, the proprietor of the member company, were as follows:

- i. The member company procured goods only from large international websites, foreign official websites of brands, well-known foreign retailers or well-established sellers on third-party trading platforms.
- ii. The Korean suppliers of the goods involved guaranteed the genuineness of the goods with an explanation, and the purchase price of the goods was not substantially lower than the market price.
- iii. The goods involved did not account for a high percentage of the total quantity of goods provided by the member company.

Hearing Panel:

8. The hearing panel held a discussion on 17 December 2024 to consider the written representations made by the member company. Members of the panel were Ms. Ida BUT, Marketing Manager of the Association, and Mr. Frederick KWOK, Senior Solicitor (Hearings) of the Intellectual Property Department (IPD).

Decision of the Hearing Panel:

9. Consideration was given to the following factors:

Consideration 1:

10. The Customs seized the goods involved in the shop of the member company during an anti-counterfeit operation. No criminal prosecution against the member company has been initiated at this stage.

Consideration 2:

11. It is stipulated in Note 1 regarding the suspension or termination of “No Fakes Pledge” membership as shown in the IPD’s website and the leaflet of the Scheme that: *“If the issuing body and/or the IPD have any reasons to believe that any member has failed to comply with any of the Terms and Conditions, or if any enforcement action is taken against such member by the Customs, the issuing body may suspend or terminate the “No Fakes Pledge” membership of the relevant member. The Customs has the right to seize and confiscate the stickers and tent cards as a result of the enforcement action taken against it.”*

Consideration 3:

12. The Scheme’s integrity towards the public should be maintained and consumers’ confidence in buying genuine goods should be safeguarded.

Outcome:

13. Upon careful consideration, the Hearing Panel reached a decision to suspend the membership of the member company for the year 2024.

14. The member company will have its membership resumed immediately if the Customs terminates the investigation or does not pursue a prosecution, or if it is acquitted by the court of the offence of infringement after being prosecuted.

15. The member company will have its membership terminated immediately if it is convicted by the court of the offence of infringement upon prosecution instituted by the Customs.

16. The processing of the member company's application for membership renewal under the Scheme will be suspended until the circumstances stated in paragraph 14 or 15 above occur.

Signed by Frederick KWOK
(Member of the Hearing Panel)

Signed by Ida BUT
(Member of the Hearing Panel)

17 December 2024