



"No Fakes Pledge" Scheme Hearing Panel

Membership of Citylink under the "No Fakes Pledge" Scheme

Decision

Background of Member:

1. Citylink ("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 2025 ("the Scheme") by the Association on 6 December 2024.

Course of Event:

2. The Customs and Excise Department ("the Customs") conducted an anti-counterfeit operation against the member company on 17 December 2024 and seized a batch of suspected counterfeit audio-visual products ("the goods involved") in its branch stores and warehouse.

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 notice to the member company by email and speed post on 20 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 31 December 2024.

5. The member company returned a completed reply slip to the Association on 20 December 2024, and authorised Tang Lawyers to attend the hearing and handle the related matters on its behalf.

Hearing Panel:

6. A hearing panel was formed to consider the case on 31 December 2024. Members of the panel included Ms Ida BUT, Marketing Manager of the Association, and Mr Ryan SAE-NG, Senior Solicitor (Hearings) of the Intellectual Property Department (IPD).

Representations made by the Member Company:

7. Mr TANG Chi-wing, legal representative of the member company, attended the hearing and made oral representations. Tang Lawyers also filed written representations to the Association before the hearing. The salient points of the oral and written representations were as follows:

- i. The member company claimed that it did not sell or deal in counterfeit or pirated goods, and that the goods involved seized by the Customs were merely “suspected” counterfeits. Their genuineness had to be further examined.
- ii. The goods involved were parallel imports procured by the member company from a Mainland supplier. To the understanding of the member company, the supplier was duly authorised by the original manufacturer and the source of the goods was reliable. In addition, the member company had adopted different measures to verify whether the goods were genuine, and all the goods it sold were registered with their respective chip numbers and could be connected to the official application programs and updates.
- iii. As far as the member company knew, the above operation conducted by the Customs was assisted by the Hong Kong agent of the brand concerned, who had previously supplied goods to the member company and subsequently became its competitor in the same trade. Therefore, the agent’s motive was questionable.
- iv. Management of the member company was well aware of the importance of respecting intellectual property (IP) rights and had imposed discipline in protecting IP rights among the staff. Over the years, the member company had demonstrated integrity in various processes of running the business such as purchase, verification and sales.
- v. The member company had all along been enjoying a good reputation in the market and no complaints against it had ever been substantiated since it was granted membership.

Decision of the Hearing Panel:

8. Consideration was given to the following factors:

Consideration 1:

9. The Customs seized the goods involved in the branch stores and warehouse of the member company during an anti-counterfeit operation. No criminal prosecution against the member company has been initiated at this stage.

Consideration 2:

10. It is stipulated in paragraph H.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:

11. The Scheme needs to maintain its public integrity and safeguard consumers’ confidence in buying genuine goods.

Outcome:

12. Upon careful consideration, the Hearing Panel reached a decision to suspend the membership of the member company for the year 2025.

13. The member company will have its membership resumed immediately if the Customs terminates investigation or ceases prosecution, or if it is acquitted by the court of the offence of infringement in the prosecution.

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

Signed by Ryan SAE-NG
(Member of the Hearing Panel)

Signed by Ida BUT
(Member of the Hearing Panel)

15 January 2025