Press release

LCQ3: Regulation of lending institutions providing loans to young people

Wednesday, February 20, 2013

Following is a question by Dr Hon Elizabeth Quat and a reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (February 20):

Question:

After consolidating information from various press reports and the dozens of requests for assistance I have received from members of the public, I have learnt that some organisations conducted pyramid selling under the guise of recruitment of marketing staff by marketing companies, and even persuaded job seekers to apply for no-income-proof loans with interest rates as high as 47% per annum to buy products. As some of the appointees, being students and young people aged below 25 who lacked economic means, were unable to repay loans amounting to several tens of thousand dollars, their families had to help them repay the loans in the end, and they also reported the cases to the Police for assistance. Some of the victims have indicated that they had lowered their guard because the jobs were recommended by their friends, and the frequent broadcast of brainwashing advertisements in the media had misled them into believing that the "instantly approved" no-income-proof loans could really be "borrowed and repaid easily", and coupled with the fact that they did not understand the content of the documents that they had signed, they had eventually run into debts with exorbitant interest rates which they could hardly repay. In this connection, will the Government inform this Council:

(a) whether any appropriate regulation of advertisements promoting no-income-proof loans is currently in place, or whether lending institutions are required to set upper limits on the amounts of no-income-proof loans provided for students or young people aged below 25; if so, of the details; if not, whether the authorities will consider enacting relevant legislation to prevent students or young people from inadvertently falling into such recruitment and lending traps;

(b) whether the authorities have compiled statistics on the number of cases of students and young people aged below 25 borrowing no-income-proof loans from finance companies in the past five years, the total amount of loans involved and the average interest rate of such loans; if they have compiled such statistics, of the details; if not, whether the authorities will compile relevant statistics to evaluate the severity of the problem; if they will not, of the reasons for that; whether the authorities can list the number of complaints similar to the aforesaid cases received from such students and young people in the past five years, the total amount of loans involved and the average interest rate of such loans, broken down by the lending institutions involved; and

(c) whether there are measures in place to ensure that lending institutions will explain clearly to borrowers the interest rates of loans and the various repayment details, and that the loans will be considered as confirmed only after both parties have signed the documents; if there are, of the details of the measures; if not, whether the authorities will formulate such measures?

Reply:

President,

The question raised by Hon Quat touches on matters under different policy bureaux. The Administration's consolidated reply is as follows :

On parts (a) and (c) of the question, at present, except for exempted bodies, anyone wishing to carry on business as a money lender must apply for a licence under the Money Lenders Ordinance (Cap 163) (MLO) and be subject to the regulation of that Ordinance. Applications for and granting of money lenders licences are determined by the Licensing Court. The Registrar of Companies is responsible for handling administrative matters related to the processing of licence applications and renewals, as well as maintaining a register of money lenders for public inspection. The Police is responsible for enforcement work including investigations of complaints against money lenders, and provides opinion to the Licensing Court on licensing matters.

Besides the licensing requirement, the MLO also provides for matters such as the form of loan agreement, interest rate, repayment arrangements, advertisements and the duty of money lenders to give information to borrowers. Regarding advertisements, section 26 of MLO provides that money-lending advertisements shall show the name and the licence number of the money lender in a conspicuous manner, and state the interest rate proposed to be charged in the manner prescribed by the MLO. On the other hand, the Trade Descriptions (Unfair Trade Practices) (Amendment) Ordinance 2012 (Amendment Ordinance) was passed by the Legislative Council in July 2012 to prohibit unfair trade practices that may be deployed against consumers. It applies to both goods and services, including services by money lenders. Under the Amendment Ordinance, if any commercial practice of a trader, including advertising by money lenders, involves the omission or hiding of material information, or the provision of material information in a manner that is unclear, unintelligible, ambiguous or untimely that causes or is likely to cause an average consumer to make a transactional decision that he would not have made otherwise, such commercial practice constitutes an offence of misleading omission. The Administration is consulting stakeholders and the general public on the draft enforcement guidelines of the Amendment Ordinance with a view to bringing it into operation within 2013.

As for the interest rate and repayment arrangements, under section 18(1) of the MLO, no agreement for the repayment of money shall be enforceable unless a memorandum or note conforming with the stipulated requirements is made in writing by the money lender and signed personally by the borrower before the money is lent. Section 18(2) further stipulates that the memorandum or note shall contain all the terms of the loan agreement and in particular shall set out the contact information of the money lender, the borrower and the surety; the dates and places of the making of the agreement and the loan; the amount of the principal; the terms of repayment; and the rate of interest charged. As regards how the interest rate is expressed, Schedule 2 of the MLO also sets out in detail the calculation of true annual percentage rate of interest.

Apart from the requirements of the relevant legislation, the Administration has taken measures to combat improper debt collection practices. In recent years, the Police has enhanced publicity to remind borrowers that they should choose licensed money lenders and consider their own repayment ability carefully, so as to mitigate the undesirable outcomes which the borrowers may have to bear in future. Starting from January 2011, the Licensing Court has also accepted the Police's suggestion to impose new licensing conditions when considering applications for money lenders licences. These include requiring money lenders and their debt collection agencies not to harass any person when locating their debtors and not to adopt illegal or improper debt collection practices, with a view to further regulating debt collection practices related to licensed money lenders. Under section 29(1)(c) of the MLO, any licensed money lender who carries on business otherwise than in accordance with the conditions of his licence is guilty of an offence and liable, upon conviction, to a $100,000 fine and two years' imprisonment.

To guard against deception cases where job seekers were victims as mentioned by Hon Quat, the Labour Department and Police have been making various promotional efforts to alert young people to job traps. These include setting up a thematic webpage on "Beware of Job Traps" on the Interactive Employment Service website; broadcasting an animated cartoon on outdoor TV walls; issuing press releases and placing advertisements on newspapers; broadcasting announcements of public interest on the radio and television as well as programmes such as the "Police Magazine"; and distributing leaflets at secondary schools, higher education institutes, district offices of the Home Affairs Department, youth centres, mutual aid committees and the Consumer Advice Centres, etc. which highlight common job traps and the means of identifying them so as to remind young people to stay vigilant and to seek advice from their families and friends when in doubt. Where necessary, they should also seek help from the Police or the Labour Department.

On part (b) of the question, we do not have any statistics on the terms on which young people borrowed loans from finance companies. Nor do we have any figures on the number of complaints received from such young people. There are technical difficulties in collecting accurate data on the amount of loans involved and the interest rate of such loans, and this also involves commercial information. At present, we do not have any plan to compile such statistics.

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