



加強規管 打擊醫療強迫銷售

Enhanced Regulation Needed to Combat Coercive Sales of Medical Services

原文

下文摘錄自2021年12月16日香港《文匯報》：

消委會發現，有醫療中心誇大或誤導陳述病情，再以強迫性的銷售手法推銷昂貴療程。醫療服務具有高度專業性，病人十分依賴醫生的判斷，容易上當受騙，醫療強迫銷售性質極為惡劣，相關行為涉嫌觸犯《商品說明條例》，當局應加強執法打擊，並應考慮設定冷靜期，保障消費者利益；醫委會也有責任調查相關醫療中心的醫生是否存在失德，按規處罰，維護專業聲譽。

根據消委會反映的情況，有無良醫療中心以免費或低價健康檢查作招徠吸引消費者，然後誇大或誤導陳述病情，利用高壓硬銷逼消費者購買高收費療程，受害者包括弱勢人士、長者或長期受精神困擾的人士。其中的惡劣手法，包括有醫療中心甚至扣留受害人的銀行卡，閉門兩小時進行疲勞轟炸。

醫生是受社會高度尊重的職業，《日內瓦宣言》要求，醫生要「憑良心和尊嚴行醫」、要「盡己所能維護醫生專業的榮譽和高尚傳統」，才對得起醫生這個名稱。醫學具高度專業性，病人非常依賴醫生的專業判斷。因此，醫療中心的強迫消費，較之美容中心、健身中心的強迫消費更為惡劣、更不可接受。

註冊醫生的行為，本身受醫委會規管。《香港註冊醫生專業守則》訂明，「醫生必須尊重病人拒絕接受所建議的檢驗和治療的決定，並予以記錄。」如果有醫生誤導病人

接受療程，醫委會可啟動調查，對判定「專業失德」者作出懲處。但現實中，醫療中心有意規避法律責任，以中心職員充當銷售員游說消費者，而醫生只是提供醫療服務建議，並不直接參與銷售游說。醫委會認為，此種行為涉及灰色地帶，需深入調查理清涉事醫生扮演的角色，才能判斷能否處罰。

其實，醫療中心若對患者的身體情況作出虛假陳述，以虛假商品說明、誤導性遺漏或具威嚇性的營業行為等不良手法牟利，本身已涉嫌觸犯《商品說明條例》，最高刑罰為罰款50萬元及監禁五年。另一方面，營銷者雖然是普通職員，但中心內存在不良銷售手法，主事的醫生不可能完全置身事外，不用負任何責任。醫委會、衛生署仍然應該深入調查，追究持牌醫生的連帶責任，懲戒業界害群之馬，以收阻嚇之效。

現時市面上醫療中心的業務範圍越來越廣，一些非緊急的醫療療程，與健身中心、美容中心推銷的健康療程重疊。不少醫療中心和美容中心、健身中心更屬同一個集團，互相交叉銷售，是造成強迫銷售、「割客」亂象氾濫的深層原因。社會對美容業、健身業的銷售亂象早有不滿，政府曾就此兩行業設立冷靜期的問題完成公眾諮詢，展開立法程序，可惜受修例風波影響，立法工作停止了。新立法會即將產生，政府應考慮將立法規管銷售手法的範圍擴闊至醫療中心，堵塞法律規管漏洞，切實維護市民利益。



◆醫療中心的銷售手法受到關注，政府應考慮將立法規管銷售手法的範圍擴闊至醫療中心。圖為工聯會的醫療所。資料圖片

譯文

The Consumer Council found that some medical centres used coercive sales tactics to lure people into buying expensive treatments by exaggerating or giving misleading claims about customers' health conditions. The provision of medical services is a professional duty. Patients often rely on doctors for their judgement and are vulnerable to falling prey to these sales tactics. The use of coercion in the sales of medical services is deplorable. Such acts may violate the Trade Descriptions Ordinance. The authorities should strengthen law enforcement to combat these practices and consider introducing a cooling-off period to protect consumers; the Medical Council of Hong Kong (MCHK) also has the duty to conduct investigations to find out if the doctors of the relevant medical centres are guilty of misconduct, and penalize them in accordance with the regulations in order to maintain the industry's professionalism.

According to the Consumer Council, some medical centres engaged in unscrupulous sales practices by luring customers with cheap or free health checks. They then exaggerated or give misleading claims about the customers' health conditions, using high-pressure sales tactics to sell expensive treatments. The victims included disad-

vantaged people, elderly, and those suffering from long-term mental health issues. In one of the cases, a medical centre deployed abusive tactics by withholding the bank card from the victim, who was then bombarded with information behind a closed door for two hours.

The profession of a doctor is highly respected in our society. The Declaration of Geneva requires a doctor to practice his profession "with conscience and dignity" and "foster the honour and noble traditions of the medical profession" in order for him to deserve to be called a doctor or medical practitioner. The provision of medical services is a highly professional job. Patients rely heavily on doctors for their professional judgement. Therefore, compared with the use of coercive sales tactics by beauty centres and fitness centres, the adoption of these aggressive sales practices by medical centres is even worse and more unacceptable.

The conduct of all registered medical practitioners is regulated by MCHK. As set out in the Code of Professional Conduct for the Guidance of Registered Medical Practitioners, "a patient's refusal of proposed investigation and treatment must be respected and documented". If a patient receives a treatment because he or she is misled by the doctor in charge, MCHK can launch an

investigation and impose punishment if it finds the doctor involved in the case guilty of professional misconduct. However, in reality, to avoid legal liabilities, medical centres often ask their staff to pitch their services and convince customers to make purchases. Their doctors are only responsible for providing medical advice and do not directly take part in the pitching of services. From MCHK's point of view, there are grey areas in such practices, and in-depth investigations are required in order to clarify the role of the doctors in the involved medical centres and determine whether punishment can be imposed on them.

In fact, the making of false claims by medical centres about patients' health conditions—an act of engaging in aggressive commercial practices involving false trade descriptions or misleading omission—is a suspected violation of the Trade Descriptions Ordinance. The maximum penalty upon conviction is a fine of \$500,000 and imprisonment for five years. Even though it was the staff of the medical centres—not the doctors—who pitched the services to customers, there is no way for the doctors in charge to completely wash their hands of their responsibilities. MCHK and the Department of Health should conduct thorough investigations, pursue the responsibilities of

the registered doctors concerned and punish the black sheep of the industry, in order to create a deterrent effect.

The business scope of the existing medical centres in the market has expanded increasingly. Some of the non-urgent medical treatments provided by local medical centres overlap with the health treatments offered by beauty centres. Many of these medical centres, beauty parlours and fitness centres are even operated by the same group. The increase of cross selling is the underlying cause for the frequent occurrence of inappropriate sales activities involving coercive sales tactics and ripping-off of customers. There has long been resentment in the society over the unscrupulous sales practices in the beauty and fitness industries. The Government has once completed public consultation on the issue of introducing a cooling-off period for trades in these two industries. Unfortunately, the relevant legislation work has stopped due to the disturbances from the opposition to the proposed legislative amendments to the Fugitive Offenders Ordinance. A new Legislative Council will soon be elected. The Government should consider extending its proposed legislation on regulating unscrupulous sales practices to cover local medical centres in order to plug the legal loopholes and safeguard public interest.

Kit Siu

原文譯文雖共通 仍有空間作改動

恒 大英萃

隔星期一見報

翻譯是二度傳訊，它的本體就是語言文字。作為衍生意義的符號，語言文字比事物更不具象，本身不擁有意義——意義是通過人的思維而衍生的製成品。正因為如此，意義的不穩定容易產生變化，造成所謂歧義，問題就出現了。

在翻譯過程中的詮釋者，包括作者、譯者和最終讀者的讀者，三者都有解釋的權利和任務。如果我們在加上贊助者 (patron)、編輯和其他的政治、社會和經濟因素的左右和操控，意義便變得更加複雜，甚至糾纏不清。

從這個角度再回看所謂客體的原文，其絕對等值的可能與否實在值得懷疑。如此一來，翻譯是否可以有意義地進行？或者，翻譯究竟有沒有可能？與本體的真實性值得懷疑的同時，我們也不可能絕對否認在認知本體的過程中共通性的存在，否則訊息傳播根本不可能發生，人與人之間的溝通也無法進行。共通性或多或少，以至詮釋的差異和浮動，則視乎訊息接收者的社會、文化和其他背景而有所不同，而翻譯的可能性也就是建基於共通性，所謂約定俗成，一定程度上不可或缺。

從這個角度去看創譯，既然原文和譯文雖然具有共通的地方，但二者意義卻不穩定，就賦予譯者一定的

空間和自由去創造、改動或增減。正如現代藝術家脫離本體，譯者也有權利從原文重新出發，進行創譯，其實這就是當代翻譯的取向。至於能否發展為各種不同的翻譯派別，甚至產生的譯作可以成為別具藝術價值的文學作品。例如晚清時期嚴復的《天演論》和林紓的小說《巴黎茶花女遺事》等，都有不少創作成分，都公認為我國文學古典。

我們要說明的是作為客體的原文，並非神聖不可侵犯。翻譯很大程度上以應用為目標，傳訊的工作完成了，也滿足了譯者和贊助者的要求，翻譯也就功德圓滿。這裏也產生了一個問題，就是改動原文的問題，究竟有沒有尺度？那是要看不同的應用因素，語篇類別也很大的關係。

權威性較高的文本，創譯的容忍度相對較低，例如聖經、政治人物的語錄、法律條文等。雖然如此，譯文意義的穩定性也不是百分之百，例如聖經需要詮釋學解決經文的爭拗，法律條文也要律師和法官解釋才可定案。

實用程度高的文本，例如廣告和其他市場推廣的譯文，便需要和可以容忍較高程度的創譯，這就符合翻譯的目的論 Skopos Theory 以實用為目標和取向的主張。很多語言服務公司現在也標榜創譯的服務，尤其是在全球一體化的市場中，創譯可以因應不同地方的需要，針對客人的文化和習俗進行本地化，加強商品的吸引力，使他們成為「快樂的顧客」(happy customer)。

趣談英語

逢星期一見報



Learn English Teens

Writing skills practice: Travelling abroad

1. Check your writing: spelling

Read Francois's reply and correct his spelling mistakes.

Dear Eoin

Thanks for your message. I'm really looking forward to my visite to Dublin. My aerplane arrives at 15:30.

I would like to go to the water park and Phoenix Park. Is it possible to borrow a bycicle? I'm not very intrested in Dracula but I like firms so we can go to the cinema too. I want to meet your frends and your family. I love football. It's my favorite sport so we can play every day if you want!

See you on Saturday.

Francois

1. Thanks for your message.
2. I'm really looking forward to my visite to Dublin.
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6. I want to meet your frends and your family.
7. I love football.
8. It's my favorite sport so we can play every day if you want!



Writing practice

Do you often make spelling mistakes? What words do you often spell incorrectly?

- Answers Check your writing: spelling
 1. message 2. visit 3. aeroplane 4. bicycle
 5. interested 6. friends 7. football 8. favourite

To find more English language activities visit www.britishcouncil.org/learnenglish teens

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