

Written submission from the Lan Kwai Fong Association

The issue of **Private Kitchens**, their popularity, their wide spread availability and the fact that the majority of them are currently operating illegally is of great concern to us in the industry. Clearly a better understanding of Private Kitchens is in order. But we also need to have a better understanding of the standards of hygiene, the standards of safety, and the licensing certification process and requirements, that are at play with Private Kitchens. All these need to be researched, vetted, adopted, and then enforced.

I would like to take this opportunity not to put forward at this particular meeting a proposed standard by which such Private Kitchens should be licensed, but rather use this welcome opportunity to highlight the need to have a more flexible, more user friendly and more pro-active licensing system for all of Hong Kong's present and future Food & Beverage Industry.

Should the question we are asking be “What are the licensing requirements needed for Private Kitchens?” or should we be asking the question: “How is it possible with so many licenses to choose from in Hong Kong, are Private Kitchens almost always unlicensed?”

The need to match the style of operation to a specific type of license is not new. Hong Kong has still not fully come to terms with Food Factory Licenses, Light Refreshments Licenses and even General Restaurant Licenses. And these are our most common and widely used licenses.

If you have a Karaoke that wants to serve French Fries or Fried Spring Rolls as snacks – you will need a General Restaurant License. If you have a Bakery that makes thousands of cakes a day for other restaurants, but wants to have some seating, limited as it may be, you need a General Restaurant License. In both these cases no reasonable person would determine that what in fact you are operating is a restaurant and thereby in need of the licensing requirements designed for restaurants. But according to Hong Kong licensing that is the only way around the failings of the Light Refreshment and Food Factory Licenses. Why do coffee shops need to be licensed as Light Refreshment when most or all of the foods they serve are not listed in any one of the approved categories of such a license? Why do they even need such a license? There are so many questions like this that to date have no reasonable answer.

The answer for Hong Kong has always been to over-license. If they don't have a license that is a near fit, you are forced to "wear" one that is often many times too big. This is the very reason we are now faced with a dilemma of Private Kitchens or rather unlicensed or un-licensable Private Kitchens.

We are now faced with the decision: Should Private Kitchens be required to get a General Restaurant License and meet all of its conditions, or is there an alternative way forward?

There is absolutely no doubt from a licensing point of view, none whatsoever, that a GRL is the only correct choice for them. But somehow with unemployment at an all time high, the economy at an all time low, there are very few people able or willing to spend the kind of capital required to meet all the safety and hygiene requirements of the GRL. So, would imposing such license conditions put all or most Private Kitchens out of business?

Are we here to try to bend the rules just a little and create a new mini-standard of GRL conditions all because Private Kitchen do employ a great many people and it is good for the economy? Regrettably that is exactly what we are being asked to do. The concept I suppose being that seeing as they only serve food for a few hours a day, and only to a small number of people they pose less of a safety or hygiene risk to the population. This is a completely flawed way of thinking. As if fire and fire safety wore a watch. The fact remains fire can, and does happen at anytime and always without warning.

Equally illogical, is the concept that a small number of seats means only a few people served. You could have a Restaurant that seats 50 and only serve twenty on a given night, and a restaurant that seats 20 but serves 50. More alarming is the notion that such Private Kitchen because they are often held in domestic flats and are essentially charging your guests to come over for dinner, that the safety risk is lower than restaurants in commercial premises. In fact, it is perhaps the other way around. Unlike commercial premises, domestic flats often have people and children sleeping next door and they may not be alerted in time to the fact that a fire has started. You also have the simple added criminal risk that individuals not resident to a specific building are gaining unlimited access to common areas and private areas of the entire building.

So with respect to Private Kitchens, is it wrong to have a more flexible licensing systems so that people can open up restaurants with less capital required? I don't think so. This option should be available to all potential investors and operators. Are Private Kitchens a good thing and a welcome concept in the industry, I believe so. Should there be a license for them and their specific needs, naturally. But we need to be very careful about what such needs are and how to identify them. Simply easing the conditions for a GRL is not the answer.

For example from a safety point of view, far more important than the number of seats and the hours of operation, is the kind of equipment used, the kind of fuel used, the kind of food prepared, and the means of escape.

The problem we face with determining the needs of Private Kitchens from a licensing point of view is not new. In the recent past our government has struggled to address licensing conditions that are miss-matched to the needs of small clubs, light refreshment establishments and karaoke venues. Today it is Private Kitchens. Tomorrow it could be Eat in Food Factories, Supermarket Product Sampling, Hotel Buffets, Private Bars, and Private Food Factories.

The truth is no one knows what new concept is coming, and thus like now, licensing will always be behind the times if it remains subject to inflexible and non-overlapping categories. The fact remains unless and until a more adaptable and thus flexible system of licensing is introduced, Hong Kong and its people will often find themselves, if they support the newest food concept and trend, actually supporting illegal businesses. As a result cutting edge concepts and new creative food and beverage products will always be held back by an inflexible system. And sadly the government's requirement will continue to be re-active and thus always behind the times.

Rather than the existing classifications we need a single food and beverage licence, whose requirements are triggered by the actual use and needs of the premises and its operation.

Licensing needs, once and for all, a level playing field.

With a single license that can have endorsements for special needs, rather than the many very inflexible ones we now have, there will be no need for our Legislators to keep revisiting the issue of licensing. Then Hong Kong's Food and Beverage industry can enjoy an equal level playing field both in terms of capital required and in terms of licensing conditions.

When it comes to licensing we should only be asking questions like:

What kind of fuel will be used?

Will deep fat oil be used for cooking?

Does the building have sufficient mean of escape for the number of seats proposed?

Is there an adequate fire suppression system between a likely source of fire and the public?

Is raw food going to be served?

And not:

Is the food consumed on the premises it was made?

Is it only open to a small number of people?

Are they only serving food for a few hours a day?