

**Bills Committee on  
Smoking (Public Health) (Amendment) Bill 2005**

**Administration's response to issues raised  
at the Bills Committee meeting on 31 October 2005**

**PURPOSE**

This paper sets out the Administration's response to issues raised by the Bills Committee at its meeting on 31 October 2005.

**BACKGROUND**

2. At the above meeting, Members raised the following issues and requested the Administration to provide a response in writing -

*(a) Breakdown of the 800 smoke-free restaurants by types and districts;*

**ADMINISTRATION'S RESPONSE**

3. As at October 2005, the Tobacco Control Office (TCO) under the Department of Health (DH) noted the following eating places that have adopted a no-smoking policy:

District	Type							Total
	Café <sup>1</sup>	Chinese restaurant	Dessert Places	Fast Food Shop	Japanese restaurant	Western restaurant	Others <sup>2</sup>	
Central and Western	28	0	2	41	2	6	0	79
Eastern	6	1	5	47	1	5	1	66
Southern	2	1	1	22	0	4	0	30
Wanchai	12	4	3	60	6	5	3	93
Islands	8	1	1	16	2	7	0	35
Yau Tsim Mong	14	6	4	72	7	8	1	112

Kowloon City	1	3	2	19	2	4	2	33
Sham Shui Po	1	0	0	26	1	3	0	31
Wong Tai Sin	2	0	4	22	0	3	0	31
Kwun Tong	7	1	2	33	3	4	1	51
Tsuen Wan	2	0	1	28	4	3	2	40
Kwai Tsing	8	0	1	25	2	7	0	43
North District	0	0	1	21	1	2	0	25
Sai Kung	1	1	1	19	1	3	0	26
Tai Po	0	0	2	15	2	2	0	21
Shatin	3	4	4	33	3	7	1	55
Tuen Mun	0	0	2	31	3	3	2	41
Yuen Long	1	0	3	20	2	3	0	29
<b>Total</b>	<b>96</b>	<b>22</b>	<b>39</b>	<b>550</b>	<b>42</b>	<b>79</b>	<b>13</b>	<b>841</b>

Remarks:

<sup>1</sup>This includes Western coffee houses and Hong Kong-style tea restaurants.

<sup>2</sup>Others include canteen, vegetarian restaurants, congee and noodle places etc.

4. It should however be noted that eating premises are free to choose whether to register with DH on the list. In other words, the number of non-smoking premises in Hong Kong should actually be more than 841.

5. Some time ago, TCO has conducted a survey in order to have a better understanding of the business operations of these smokefree premises. The results are expected to be available by the end of 2005. We will report the findings to this Committee later.

*(b) sale figures of Dublin Jack, the first smoke-free pub in Hong Kong, before and after the implementation of total smoking ban in its premises; and*

6. We learnt that Dublin Jack was closed since last October due to a marked rise in rent. However, the ex managing director recalled that after

the implementation of the no smoking policy, the food and drink sales have increased in his bar, despite a decrease in the number of customers.

***(c) whether health warning displaying the logo and/or the name of any tobacco product would fall within the definition of tobacco advertisement under section 14 of the Smoking (Public Health) Ordinance (Cap. 371).***

7. Section 14(1) of the Smoking (Public Health) Ordinance specifies that an advertisement is a tobacco advertisement if it

*(a) contains any express or implied inducement, suggestion or request to purchase or smoke cigarettes, cigarette tobacco, cigars or pipe tobacco;*

*(b) relates to smoking in terms which are calculated, expressly or impliedly, to promote or encourage the use of cigarettes, cigarette tobacco, cigars or pipe tobacco; or*

*(c) illustrates or mentions smoking or cigarettes, cigarette tobacco, cigars or pipe tobacco or their packages or qualities.*

8. Section 14(1A) further specifies that “an advertisement is not regarded as a tobacco advertisement if its purpose is to discourage smoking.” Section 14(2) further stipulates that:

*Subject to subsections (3) to (5), where-*

*(a) an advertisement; or*

*(b) any object, other than a tobacco product, which is displayed to the public, whether for sale or otherwise, in the course of conducting any business or providing any service, includes the name or trade name of any person associated with the marketing of any tobacco product, or any trade mark or brand name of a tobacco product, or any pictorial device or part thereof commonly associated therewith, then the advertisement or object shall be deemed to be a tobacco advertisement.*

9. Having obtained legal advice, we take the view that it is a tobacco advertisement. Firstly, it falls clearly within the scope of section 14(1)(c) and is also capable of falling within the scope of section 14(1)(a). Secondly, it is deemed to be a tobacco advertisement under section 14(2).