

(For information)

**Legco Panel on Food Safety and Environmental Hygiene
Subcommittee to study the streamlining of food business licensing**

Private sector involvement in cinema licensing

Purpose

This paper presents the views collected from the cinema trade, professional bodies and registered specialist contractors on the practicality and feasibility of greater private sector involvement in cinema licensing.

2. The Hong Kong Theatres Association, the Hong Kong Institute of Architects (HKIA), the Hong Kong Institution of Engineers (HKIE), the Hong Kong Institute of Surveyors (HKIS), the Hong Kong Registered Ventilation Contractors Association and the Association of Registered Fire Service Installation Contractors of Hong Kong have been consulted on the subject.

Background

3. The Business Facilitation Division of the Economic Analysis and Business Facilitation Unit is reviewing the licensing regime for cinemas. The review aims at streamlining the existing cinema licensing regime with a view to developing a more business-friendly environment for the trade. Among other issues, cinema operators have particularly requested shortening the lead-time taken to obtain a cinema licence.

4. Under the present system, the processing time for cinema licensing is dependent on the following activities –

- (a) Inspection of the premises and issuing licensing requirements by the Food and Environmental Hygiene Department, the Buildings Department, and the Fire Services Department;
- (b) Issue of the revised licensing requirements due to layout changes;
- (c) Carrying out of fitting-out works by the cinema operator;

- (d) Certification by professionals on building safety and fire service installations;
- (e) Inspections by the respective departments to confirm full compliance; and
- (f) Rectification of defects identified in the course of inspections.

The licensing process requires interactions and close co-operation of parties involved, i.e. government departments concerned, the applicant and his professionals and contractors. The review has been focusing on activities (a), (b) and (e) with a view to identifying improvement opportunities without compromising public safety.

A possible licensing framework

5. To speed up the process, a possible option could be the introduction of a new licensing framework by which professionals in the private sector will play a more prominent role in advising on licensing requirements and certifying compliance. The cinema trade may engage Authorized Persons⁽¹⁾ (APs) and registered specialist contractors to work out the licensing requirements of the premises and to plan, design and fit out the premises according to published standards and guidelines. The Licensing Authority will issue a licence upon receipt of certification of compliance by APs and registered specialist contractors. The Government would then focus more on enforcement and regulatory functions, including defining and updating the licensing conditions and standards.

Cinema operators' views

6. The cinema trade welcomed the proposal for greater use of professionals in the licensing process as this would speed up the process. They were confident that APs, registered fire service installation contractors and registered specialist (ventilation) contractors were capable of defining and interpreting the licensing requirements as well as certifying full compliance.

⁽¹⁾ Authorized Persons are registered with the Buildings Department who are qualified to perform duties and functions of an authorized person in accordance with the Buildings Ordinance. The authorized persons' register contains a list of architects, engineers and surveyors.

APs' views

7. APs supported self-certification. It is a system similar to that for provisional restaurant licensing, whereby the Licensing Authority serves as the “final checker” to ensure that safety standards are met prior to the issue of a full licence. APs however pointed out some pre-requisites to make the system work –

- (a) **Uniformity of standards** – HKIE and HKIA worried that individual government officials might apply different yardsticks in the course of audit inspections although professionals had already certified compliance, thus resulting in disputes. Both professional bodies stressed the importance of making known the government standards and details of licensing conditions and requirements.
- (b) **Liabilities** – HKIA was keen to see a clear definition of the extent of liabilities to be borne by each party should a problem arise. There was a suggestion that main contractors should be required to certify workmanship of their work while APs should confirm compliance of requirements on design. *(For reference, compliance of fire service installations in the case of provisional restaurant licensing are certified by registered contractors and endorsed by APs. But it is not the case for the certification on ventilation, which does not require APs' endorsement.)*

8. On the feasibility of APs advising on licensing requirements direct, all professional bodies had expressed reservations. They would prefer to follow the current practice whereby the Licensing Authority defines and issues licensing requirements on a case-by-case basis. This would mitigate disputes on the interpretation of licensing requirements and give them greater assurance on the work to be done.

9. Third party certification is a system by which compliance of a project is certified not by the APs who carry out the work, but by independent accredited professionals. This would remove the Government's role in final checking for compliance. Both cinema operators and HKIA however believed that third party certification would not speed up the licensing process and would result in additional cost.

Registered contractors' views

10. The Hong Kong Registered Ventilation Contractors Association and the Association of Registered Fire Service Installation Contractors of Hong Kong welcomed self certification by professionals and registered contractors who carried out the works. They were also confident that their members were acquainted of the Government's licensing standards and requirements. They would accept full liabilities should any problem arise from their work. Both Associations did not express views on certification by third party certifiers.

Way forward

11. We are finalizing the improvement proposals in the light of the feedback from the trade, professional bodies and specialist contractors. The Subgroup on Business Facilitation will deliberate on the improvement proposals at its meeting on 25 April and make recommendations to the Economic and Employment Council in June.

Economic Analysis and Business Facilitation Unit
March 2005