

本函檔號 **Our ref.:** HWF(F) 5/5/2  
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22 February 2006

Mrs. Constance LI,  
Legislative Council Secretariat,  
Legislative Council Building,  
8 Jackson Road,  
Central.  
(Fax : 2509 0775 )

Dear Mrs. LI,

Waste Disposal Ordinance  
(Amendment of Fourth Schedule) Notice 2006  
Public Health (Animals and Birds)  
(Licensing of Livestock Keeping)(Amendment) Regulation 2006

Thank you for your letter dated 17 February. My replies are set out below:

The motion passed by the Subcommittee on Waste Disposal Ordinance (Amendment of Fourth Schedule) Notice 2006 and Public Health (Animals and Birds) (Licensing of Livestock Keeping) (Amendment) Regulation on 26 February

We would like to reiterate that the intention of the Government in enacting the legislation to ban backyard poultry is to protect public health and prevent avian influenza

from breaking out in backyard poultry that may then jeopardize the health of the general public, including the poultry keepers, their families as well as neighbours. Avian influenza is a highly pathogenic virus and the consequences would be unthinkable if it spreads in Hong Kong. According to the World Health Organization (WHO), the mortality rate for humans infected with avian influenza is higher than 50% and even reaches 70% in certain areas. Apart from the high overall mortality rate, the avian influenza also poses a very high risk to the population segments that are generally in good health. According to expert analysis, half of the 116 persons recorded by WHO to have come down with avian influenza were under 16 years old, two third of them under 29 years old, and only 10% of them aged 40 or above. Hong Kong has also recorded casualties arising from the disease in 1997 - the first ever documented human avian influenza case. Since then, Government has acted vigorously to prevent avian influenza from recurring.

In his speech delivered during the motion debate on avian influenza on 30 November 2005, the Secretary for Health, Welfare and Food Bureau has warned that amendment legislations to ban private poultry keeping was under consideration. Before the amendments were introduced, free vaccination had been provided for backyard chickens raised for private consumption. But the lukewarm response meant that the measure could not effectively reduce the threat posed by backyard poultry keeping activities.

We would like to make it clear that the monetary amount of the compensation was not the main consideration for the Government in deciding not to offer ex-gratia payment to affected backyard poultry keepers. Rather, it is to forestall delay in implementing the law arising from controversy over the amount of compensation. With the threat of avian influenza becoming more imminent recently, it is crucial for the authorities to enact emergency legislative amendments to ban backyard poultry. Moreover, should the Government decide to offer compensation, backyard poultry keepers might postpone dealing with their poultry until payment was made. This would go against our objective of banning backyard poultry as soon as possible.

As regards the law, we have explained in detail at the last sub-committee meeting held on 16 February that the measures did not constitute deprivation of property. In brief, our legal adviser considered that the legislative amendments did not by themselves effect any transfer of title of the poultry to the SARG. Nor did they extinguish the title of poultry owners to their property. Therefore, there was no deprivation in the formal sense. Moreover, there is no de facto deprivation since the owners of backyard poultry could slaughter their small number of poultry for private consumption (which is in line with the purpose of backyard farming) in anticipation of the commencement of the legislative

amendments. Therefore, the statutory prohibition of backyard poultry keeping has not breached Section 105 of the Basic Law.

We must stress that in the event of an avian influenza outbreak, it would not only jeopardize public health but also deal a severe blow to our economy. Tourism industry would be the first to bear the brunt, as visitors would not risk going to infected areas for pleasure or conferences. In addition, the financial sector, one of the mainstays of our economy, would also be affected, as investors would divert their capital to other safe areas. In the event of an avian influenza outbreak in Hong Kong, our economic growth would shrink by more than half, as projected by the Lowy Institute for International Policy, Australian National University, which made the estimate with reference to SARS. Some European press also estimated that our share prices would plunge by about 30%.

The statistics from WHO also revealed that most of the recent human cases recorded in the Mainland, Vietnam, Indonesia and Turkey were related to backyard poultry. Since backyard poultry are not protected by biosecurity measures or systematic vaccination, international experts considered them a hotbed for avian influenza outbreaks and thus poses a very grave hazard to public health. In the face of such a threat, many countries have acted to prohibit rearing poultry outdoors or in backyards. European countries, such as France and Austria, have acted immediately to restrict contact between humans and poultry upon discovery of dead birds with H5N1. To stop the spread of the epidemic, the European Union has also enacted a directive on 16 February that requires poultry in areas with suspected avian influenza cases to be kept indoors to prevent contacts between poultry and other birds. Therefore, it is vital to take decisive actions to eliminate the threat posed by backyard poultry as speedily as possible. The threat of avian influenza is not just our local problem. As a member of the international community, it is our obligation to prevent the outbreak of an epidemic that would put peoples and economies around the world at risk. Indeed, our vigilance against avian influenza and prompt action in banning backyard poultry have earned commendations from WHO, which also noted that the increasing number of infected wild birds in Hong Kong did not mean that the situation in the territory has deteriorated.

We believe that most Hong Kong people are very willing to perform their civic duties and stop rearing backyard poultry in the interests of protecting their own health as well as others. Indeed, we appreciate very much the cooperation of the public since the ban has come into force. For future prevention work against avian influenza, the Government will continue to count on public cooperation to protect public health.

## Special Licence

As regards the proposal for issuing special licence for pet poultry, we are studying the feasibility of issuing “exhibition licence for animals/birds” to persons who wish to continue to keep poultry. But even if the proposal were adopted, the licence would only be issued to those who had submitted applications before the law came into operation. We must also stress that applicants have to prove that they can comply with the biosecurity requirements, ensure that their poultry would be regularly vaccinated and would not become a nuisance to others. We must also stress that the Government does not encourage anyone keeping poultry as pets and has no intention to issue a new type of licences specially designated for “pet poultry”. This is because poultry feathers may carry viruses that would affect human health through close contacts.

The number of confirmed cases of wild birds (including resident birds) in Hong Kong being infected with H5N1 has been rising recently. Since backyard poultry are reared in places without any biosecurity measures, they would be vulnerable to infection by infected wild birds. Viruses may then propagate amongst them and become more transmissible to humans. Therefore, it is imperative to impose an immediate ban on backyard poultry.

Yours sincerely,

*(signed)*

(Mr. LAU Ka Ki, Wallace)

for Secretary for Health, Welfare and Food Bureau