

**For discussion on
17 April 2007**

Legislative Council Panel on Commerce and Industry

**Improving the Business Environment –
Enhancing the Business Licensing System**

Purpose

This paper reports on the progress of the Government's business facilitation work to improve Hong Kong's business environment, including measures to enhance the business licensing system, under its business facilitation programme coordinated by the Economic Analysis and Business Facilitation Unit (EABFU) of the Financial Secretary's Office.

Background

2. Hong Kong is one of the freest economies in the world and has a favourable business environment, underpinned by a sound legal system, an independent judiciary, a low and simple tax regime, free flows of capital and information, and a clean and efficient government. To increase our competitiveness and boost economic development, the Government recognizes that we must strive for continuous improvement and provide a more customer-friendly business environment. Under the "market leads, Government facilitates" principle, the Government will continue its efforts to provide an optimal environment for business to flourish.

3. The Government is keen to look for ways to simplify our regulatory and business licensing regimes. There are over 380 business-related licences/permits of various types covering all the nine trade groups of Hong Kong businesses¹ and involving 35 bureaux/departments and around 90 Ordinances. Over the past few years, the

¹ According to the Hong Kong Standard Industrial Classification compiled by the Census and Statistics Department, Hong Kong businesses are divided into nine groups, including Agriculture and Fishing; Mining and Quarrying; Manufacturing; Electricity, Gas and Water; Construction; Wholesale, Retail and Import/Export Trades, Restaurants and Hotels; Transport, Storage and Communication; Financing, Insurance, Real Estate and Business Services; and Community, Social and Personal Services.

Government has completed over 120 reviews on government regulations and procedures impacting on business and implemented more than 500 measures with a view to cutting red tape, removing unnecessary or outdated regulations and reducing the compliance costs to business under its business facilitation programme.

4. In response to the feedback from the business community, a number of regulatory reviews on the licensing regimes of selected business sectors such as the food business, entertainment, construction, hotel, retail and import/export trades have been conducted with practical recommendations to streamline the licensing regimes and expedite the government licensing processes and procedures. Some notable achievements include provisional licences for food premises including restaurant, fresh provision shop and food factory; relaxation in the Massage Ordinance to remove licensing control on foot massage; multi-year licence for hotel and guesthouse; electronic retrieval of building plans; exemption of some air transshipment cargoes from import/export licence requirement, etc. The business community has benefited from these business facilitation measures. A list of the projects completed under the Government's business facilitation programme and their broad achievements is on the web site of the EABFU (<http://www.info.gov.hk/fso/eabfu/eng/>) for public access.

The setting up of the Economic and Employment Council, Business Facilitation Advisory Committee, business facilitation task forces and EABFU

5. To further improve the business environment and to strengthen the collaboration between government and business, the Government established the Economic and Employment Council (EEC) in January 2004 and the EEC Sub-group on Business Facilitation in March 2004 to advise, inter alia, on measures to facilitate business and job creation. The EABFU was set up on 1 June 2004 to support the work of the EEC and its Sub-group and to further develop the business facilitation programme. Upon the dissolution of the EEC and its Sub-group in December 2005, the Government appointed the Business Facilitation Advisory Committee (BFAC) in January 2006, which comprises representatives from the political, business, academic and professional sectors as well as senior

government officials from relevant bureaux to further take forward its business facilitation efforts. The EABFU continues to provide support to the BFAC and its task forces, and coordinates the Government's business facilitation programme.

6. On the advice of the former EEC and the BFAC, the Government has been adopting a sector-specific approach in regulatory reviews, which entails a comprehensive and systematic examination of the regulatory activities affecting selected business sectors according to the priorities recommended by the EEC/BFAC. Five dedicated task forces² with industry representatives have so far been set up under the EEC/BFAC to steer and oversee these sector-specific regulatory reviews. The EABFU also takes forward other business facilitation work for sectors not covered by the task forces. The foci of regulatory reviews in the past two years have been on the real estate development, construction, retail, food business and entertainment sectors.

Progress of business facilitation work under the steer of the EEC/BFAC

7. Under the steer of the EEC/BFAC and with the support of members of the business community who actively participate in the task forces and provide their views from the users' perspective, good progress has been made in our business facilitation work. Some of the more prominent recommendations and their achievements include –

- (i) Introduction of a composite licence covering retail licences or permits for various types of ready-to-eat food;
- (ii) Introduction of a performance pledge to speed up the vetting and approval of fitting out works for setting up food retail shops in public housing estates to within seven days for simple cases, and within 21 days for more complicated cases;

² The five task forces are the Pre-construction Task Force, Town Planning Task Force, Retail Task Force, Food Business Task Force and the Task Force to Review the Construction Stage of the Development Process [Construction Task Force (CTF)]. The CTF was established under the Provisional Construction Industry Co-ordination Board (PCICB) and was disbanded following the dissolution of the PCICB and the setting up of the Construction Industry Council on 1 February 2007.

- (iii) Reduction in the number of consumer product categories to be regulated under the proposed Volatile Organic Compound legislation and simplification of control method;
- (iv) Simplification of lease conditions by streamlining 22 Special Conditions of the residential land lease;
- (v) Setting up a mechanism for the enquiry of the “before value” of land for special cases, thereby helping to speed up the processing of land exchange/lease modification cases;
- (vi) Introduction of a provisional licence for cinemas to allow a cinema to commence business in half the time normally taken and relaxing the regulation governing exit routes of cinemas located in non-domestic buildings and non-domestic parts of composite buildings;
- (vii) Streamlining the processing of liquor licence applications. It is estimated that the processing time of new applications will reduce by about 40%;
- (viii) Streamlining the processing of applications for outside seating accommodation for restaurants. It is estimated that the processing time for straightforward applications will reduce by about 30%;
- (ix) Further streamlining the processing of lease modification and land exchange applications. It is estimated that the processing time of the Lands Department will reduce by some 20% upon implementation of all recommendations;
- (x) Streamlining the processing of planning applications and the processing of town planning appeals. For example, the holding of regular District Planning Conference meetings will help resolve issues between an applicant and concerned departments within a shorter and more definite timeframe. The waiting time for town planning appeal cases will reduce from 11 months to about six to seven months;

- (xi) Streamlining the processing of application and inspection of water plumbing installations in new buildings. It is estimated that the average elapse time for approval of applications will reduce by 50%;
- (xii) Rationalising the licensing requirements for places of public entertainment (PPE) covering theme parks and family amusement centres. It is expected that the average processing time for new applications for PPE and amusement with prize licences will reduce by 25% and the trade will benefit from 10% savings of the start-up and operating costs; and
- (xiii) Streamlining and expediting the processing of registration of pharmaceutical products containing new chemical entities, resulting in a reduction of the processing time by about 20%.

8. Under the steer of the BFAC and its task forces, the Government will closely monitor the progress and effectiveness of its business facilitation programme and identify new initiatives to facilitate business. For more details of the work progress and broad achievements of the five task forces and the EABFU so far, please refer to **Annex**.

Enhancing the business licensing system – the “Be the Smart Regulator” Programme

9. To further improve our licensing processes and business environment, the Government has recently launched the “Be the Smart Regulator” Programme (the Programme) and formulated an action plan of short- to long-term measures to address the business community’s common concerns about the administration of the licensing process, communication between the applicants and the departments processing licence applications, as well as the regulations and licensing requirements. The action plan aims to reduce compliance cost and administrative burden on business while safeguarding public interest.

10. The Programme aims to develop a model of best practices that can be replicated across licences and departments. The current focus of the Programme is to improve the processing of food-related licences (*such as restaurant licence*) of the Food and Environmental Hygiene Department

and the club and hotel licences of the Home Affairs Department, which are relatively more complex with multiple departmental interfaces. Based on our experience with these licences, we will develop a model of best practices that will be replicated across licences and departments. The Programme is progressing well and gathering momentum.

11. Under the Programme, the Government will measure its performance in regulatory activities and the regulatory impact on business, prepare plans to enhance the licensing processes and communication with business, and devise measures to simplify regulations.

Business Liaison Groups

12. As part of the Programme, the Government has set up eight Business Liaison Groups (BLG) for the cinema, theme park, family amusement centre, hotel, recreation club, entertainment establishment (e.g. mahjong club, karaoke club and bar), restaurant and non-restaurant food businesses to facilitate their mutual understanding with government departments regarding licensing and regulatory issues. The BLG meetings which are held regularly are well received by the trade representatives. These meetings provide an effective forum for departments to clarify any possible misunderstandings about government regulations and requirements and solicit suggestions from the trade to help resolve licensing and regulatory issues. We will consider setting up more BLGs to communicate with various business sectors. At the same time, we will also invite the major Chambers of Commerce to send representatives to the BFAC and the BLGs.

Performance and cost measurement

13. The Government has commissioned an opinion survey to collect views from the business sectors and representatives about licensing and regulatory control of businesses in Hong Kong. The results of the survey will give us the parameters for measuring and comparing over time the effectiveness of our Programme on reducing the compliance burden of the business sectors and minimizing the impact of regulations on business operations.

Regulatory assessment and review

14. The Government is looking at ways to strengthen the assessment/evaluation of the impact of new regulations on business in order to avoid the introduction of unreasonable regulatory or licensing requirements. Meanwhile, bureaux/departments will continue to critically assess the regulatory impact and compliance costs to the business community and involve the trade early in the drawing up of new regulation or new licensing proposals.

Promotion of a business facilitation culture

15. To further promote the business facilitation culture within the civil service, the Government has recently issued a brochure to bureaux/departments on the importance of smart regulations through adopting a four-stage approach (i.e. planning, consultation, implementation and review) in regulatory work. A web site on the Programme has been set up internally to promote good practices within the Government. We are also developing a web site on the work of the Programme for public access.

Way forward

16. The Government will continue to work closely with the BFAC to take forward its business facilitation efforts and actively explore ways to improve the regulatory and licensing system in partnership with the business community. Members are invited to note the progress of the Government's business facilitation work.

Economic Analysis and Business Facilitation Unit
Financial Secretary's Office
April 2007

A summary of the work progress and broad achievements of the task forces and the Economic Analysis and Business Facilitation Unit (EABFU)

WORK OF TASK FORCES

Pre-construction Task Force (PCTF)

- The PCTF is tasked to review the regulatory problems facing the real estate development sector, and to recommend measures to enhance the efficiency of operation of the sector.
- The PCTF has completed its review covering land matters and made substantive recommendations to simplify the lease conditions and improve the lease modification procedures to make the process more efficient.
- Regarding simplification of lease conditions, the Lands Department has streamlined 22 Special Conditions of the residential land lease, which will help expedite the development process.
- Concerning the improvement of the lease modification procedures, the Lands Department has commenced the mechanism for the enquiry of the “before value” of land for special cases, which will help speed up the processing of lease modification and land exchange applications.
- To further shorten the processing time and simplify the overall process of lease modification and land exchange applications, a consultancy study was completed in February 2007 under the steer of the PCTF. The Lands Department is working out an action plan to take forward the recommendations. It is anticipated that it will help shorten the processing time of the Lands Department by some 20% upon implementation of all recommendations.

Town Planning Task Force (TPTF)

- The TPTF is tasked to review the town planning issues encountered by the real estate sector in the main planning processes and to recommend measures to improve the operational efficiency of the processes.
- The TPTF has completed a review of the main planning processes with most recommendations taken on board by the Planning Department. Some notable improvement measures implemented include the holding of regular District Planning Conference meetings to help resolve issues between an applicant and concerned departments within a shorter and more definite timeframe, stating clearly the Planning Department's stance in the Town Planning Board paper during the planning review to improve transparency, etc.
- The TPTF has also completed a review of the processing of town planning appeals. The Town Planning Appeal Board Secretariat is implementing a number of measures to shorten the waiting time for town planning appeal cases, which is estimated to reduce from 11 months to about six to seven months.

Task Force to Review the Construction Stage of the Development Process [Construction Task Force (CTF)]

- The CTF was formed under the former Provisional Construction Industry Co-ordination Board (PCICB) to make recommendations on measures to speed up the construction cycle and lower the cost of complying with prevailing statutory requirements.
- The CTF had discussed several topics, including private certification of building submissions; delegation of vetting authorities by regulatory agencies; centralizing processing of building plans to streamline the building submission process; and overall review of the regulatory framework for the construction stage. The CTF had completed its deliberations and had been disbanded following the dissolution of the PCICB and the establishment of the Construction Industry Council on 1 February 2007.

Retail Task Force (RTF)

- The RTF has initiated/completed the following reviews with feasible recommendations to simplify and improve the regulatory and licensing regimes.

Review of non-restaurant food licences

- The RTF recommended the introduction of a composite licence/permit covering retail licences or permits for various types of ready-to-eat food. The Food and Environmental Hygiene Department (FEHD) consulted the LegCo Panel on Food Safety and Environmental Hygiene of the proposal on 9 January 2007 and obtained the Panel's support. The FEHD is working out the legislative amendments and the licensing requirements/conditions. The FEHD has enhanced the consultation mechanism with the trade and rationalized some licensing requirements to facilitate business following the review.
- The Housing Department introduced a performance pledge to speed up the vetting and approval of fitting out works for setting up food retail shops in public housing estates to within seven days for simple cases, and within 21 days for more complicated cases. The performance pledge is fully met as shown in a recent progress report.

Regulatory proposal regarding Volatile Organic Compound (VOC)

- The RTF facilitated discussions between the trade and the Environment, Transport and Works Bureau regarding the registration and labelling scheme relating to the VOC content of consumer products. The Bureau agreed to reduce the number of consumer product categories to be regulated from 40 to six after active discussions with the trade. The mandatory registration, testing and labelling requirements were also replaced by more straightforward limit control on the maximum VOC contents in products. The revised policy was implemented on 1 April 2007.

Beauty/cosmetics/pharmaceutical products regulatory review

- The RTF recommended ways to shorten the processing time for the registration of pharmaceutical products containing new chemical entities. The registration time for these products has been shortened by about 20% with the implementation of the RTF's recommendations.
- The Department of Health (DH) has compiled a set of draft guidelines to help traders determine if a beauty/health product needs registration. The guidelines are being finalized in consultation with the trade.
- As proposed by the RTF, the DH is exploring the feasibility of adopting a differential approach in registering products of different risk categories in order to expedite the registration time.

Mandatory Energy Efficiency Labelling Scheme

- The RTF conveyed the trade's concerns to the Administration and urged the Administration to fully assess the potential regulatory impact and compliance costs of the proposal. After considering the views of the trade and the RTF and similar schemes in overseas countries, the Administration now proposes a self-testing system that does not require product registration. Trade representatives consulted by the Administration have indicated in-principle support for implementing the self-testing system.

Concerns of the proprietary Chinese medicine trade

- The trade considers that the existing regulatory system of proprietary Chinese medicine is too stringent. The RTF is following up the trade's concerns with the DH for possible improvement measures to simplify the registration procedures and requirements.

Food Business Task Force

Review of the processing of outside seating accommodation for restaurants

- The review was completed in January 2007. A working group has been formed to take forward the recommendations. An enhanced licensing guide is being prepared to help applicants better understand the licensing requirements and to facilitate their applications. It is expected that the processing time for straightforward applications will reduce by around 30%.

Review of liquor licensing

- The review was completed in January 2007. The Administration is working out an action plan. An application tracking system has been set up to facilitate inter-departmental coordination and communication in processing the applications. It is expected that the processing of new applications will reduce by about 40% after the implementation of all recommendations.

Other business facilitation work of the EABFU

Apart from the above work under the task forces, the EABFU has initiated/completed the following major regulatory reviews under the steer of the former EEC/BFAC.

Review of cinema licensing

- The review was completed in August 2005. The introduction of a provisional license for cinema allows a cinema to commence business in half the time normally taken. The relaxation of the regulations such as those governing exit routes of cinemas located in non-domestic buildings and non-domestic parts of composite buildings reduces the regulatory burden on the trade. The establishment of a regular forum with the trade improves the trade's communication with the Administration and facilitates compliance.

Review of licensing requirements for places of public entertainment (PPE) covering theme parks and family amusement centres

- The review was completed in June 2006. The majority of the recommendations have been implemented. It is estimated that the average processing time for new applications for PPE and amusement with prize licences will reduce by 25% and the trade will benefit from 10% savings of the start-up and operating costs.

Review of the processing of application and inspection of water plumbing installations in new buildings

- The review was completed in March 2007. It is estimated that the average elapse time for approval of applications will reduce by 50% with all the improvement measures put in place. The recommendations will also facilitate a better understanding of the requirements, improve the quality of submissions and provide a formal communication channel to the industry.