

立法會 *Legislative Council*

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Report of the Panel on Food Safety and Environmental Hygiene for submission to the Legislative Council

Purpose

This report gives an account of the work of the Panel on Food Safety and Environmental Hygiene in the 2007-2008 session. It will be tabled at the meeting of the Legislative Council (LegCo) on 2 July 2008 in accordance with Rule 77(14) of the Rules of Procedure of LegCo.

The Panel

2. The Panel was formed by a resolution passed by the Council on 20 December 2000 and, as amended on 9 October 2002 and 11 July 2007, for the purpose of monitoring and examining Government policies and issues of public concern relating to food safety, environmental hygiene and agriculture and fisheries. The terms of reference of the Panel are in **Appendix I**.

3. Hon Tommy CHEUNG Yu-yan and Hon Fred LI Wah-ming were elected Chairman and Deputy Chairman respectively. The membership list of the Panel is in **Appendix II**.

Major work

Food safety legislation

New Food Safety Bill

4. Following a series of food safety incidents in November 2006 involving the discovery of Sudan Red in certain poultry eggs imported from the Mainland and detection of veterinarian drug residues in turbot fish on the Mainland and malachite green and nitrofurans in freshwater fish samples collected at retail outlets in Hong Kong, the Panel had urged the Administration to review and improve comprehensively the food safety regulatory framework and to bring wholesalers, distributors and retailers under regulation. The Administration briefed the Panel in December 2007 on the proposed Food Safety Bill ("the Bill") which would be introduced into LegCo in the 2008-2009 session.

5. Under the Bill, a mandatory registration scheme for food importers and distributors would be introduced and it would be an offence for food distributors and retailers to patronize non-registered food importers or non-registered food distributors. The Bill would also empower the Food Safety Authority (i.e. the Director of Food and Environmental Hygiene (DFEH)) to issue an order to prohibit the import or sale of problem food and issue a recall order when a food product was suspected to have posed a serious health hazard to the public. The Bill would also include various import control measures for different food types such as game, meat, poultry and poultry eggs, aquatic products, and fruits and vegetables. The definition of "food" in the existing Public Health and Municipal Services Ordinance (PHMSO) (Cap.132) would be broadened to cover live fish, live amphibian as well as ice that were outside the scope of current statutory control.

6. Members were supportive of the legislative proposal and urged the Administration to expedite the legislative process. They, however, expressed concern that the Bill could regulate only part of the whole food chain "from farm to table". Moreover, it would be difficult to eradicate the problem of smuggling of food products from non-registered sources and enforce the new legislation if food products imported from improper channels were mixed up with those sourced from registered farms.

7. The Administration responded that the Bill would help strengthen the management of every part in the whole food chain through a new regulatory approach, including imposing a registration scheme on food importers and distributors. Supplemented by other regulatory measures such as mandatory recall of problematic food and the requirement of health certificates for the import of certain food items, the Bill could provide a more comprehensive food safety regulatory framework for imported food.

8. On the proposed statutory registration and record-keeping requirements, some members considered that small food business operators might have difficulties in complying with the statutory requirements, hence leading to monopolization of the market by supermarket chain stores. A view was also expressed that the proposals would have an impact on the cost of the food trade and on the operation of licenced food premises which might be subject to various types of regulation under different pieces of legislation.

9. According to the Administration, the initial thought for the level of registration fee for food importers and distributors would be about \$200 for a period of three years. The Administration would also review and rationalize the provisions of the existing PHMSO and the Bill to avoid any overlapping of regulation under these two pieces of legislation.

Proposed regulatory framework for pesticide residues in food

10. The Administration briefed the Panel on the proposed regulatory framework for pesticide residues in food in Hong Kong. Under the proposed regulatory framework, "maximum residue levels" (MRLs) of pesticides that were allowed to be found in food would be specified in the legislation and any other pesticide residues without specified MRLs were either not allowed or the residual level of which should not exceed a "default value". A list of "exempted substances" would be developed to facilitate the trade to use pesticides that were natural and the residues of which were identical to or indistinguishable from natural food components, and a two-year grace period would be provided for the trade.

11. While the Panel in general welcomed the Administration's proposal for regulating pesticide residues in food, some members considered that the Administration should have introduced the legislation earlier. They suggested that the two-year grace period should be reduced to one year and the proposed pesticide residues standards should synchronize with that on the Mainland given that the Mainland was Hong Kong's major food supplier.

12. The Administration advised the Panel that, under the proposed list of pesticides, there would be some 400 specified pesticides, some 200 pesticides of which were listed on Codex Alimentarius Commission (Codex) standards, some 100 pesticides on the Mainland's national standard for pesticide residues, and the remaining were adopted by Hong Kong's major food importing countries/places.

Proposed amendments to the Preservatives in Food Regulations

13. The Administration briefed the Panel on the legislative proposal to amend the Preservatives in Food Regulations (Cap.132BD) in November 2007. Members noted that the Regulations would be amended to expand the definition of "antioxidant", incorporate those preservatives and antioxidants with their permitted levels of use under the General Standard on Food Additives of Codex, combine the existing list of permitted preservatives and that of antioxidants, and develop a food category system adopted by Codex. A two-year grace period would also be provided for the trade.

14. Members raised no objection to the legislative proposal, but a view was expressed that legislation against the use of carbon monoxide by unscrupulous food traders to mask the staleness of food products beyond the expiry date for consumption should also be introduced. According to the Administration, food sold and intended for human consumption should be fit for human consumption under PHMSO. It would be an offence for any person to provide food that was unfit for human consumption.

Proposed amendments to the Colouring Matter in Food Regulations

15. While expressing support for the Administration's proposed amendment to the Colouring Matter in Food Regulations (Cap.132H) to remove Red 2G from the list of permitted colouring matter, members raised concern whether a mechanism had been put in place to ensure that local food standards were in line with the international ones. A view was also expressed that the amendment regulation should take immediate effect upon its enactment to prevent continuous use of Red 2G in making food products as it would pose health risk to the public.

16. The Administration stressed that the available evidence did not indicate any immediate threat to health upon normal consumption of food containing Red 2G. However, it would consult the trade's view on the transitional arrangement. The Administration also advised that the Centre for Food Safety (CFS) kept a close watch of the development of food standards in overseas and made reference to international food standards, notably Codex standards and materials published on the website of overseas food safety authorities.

Mandatory nutrition labelling scheme

17. The issue of introducing a mandatory nutrition labelling scheme for prepackaged food had been discussed for some years by the Panel. In December 2007, the Administration consulted the Panel on its legislative proposal of introducing a mandatory "one plus seven" nutrition labelling scheme (i.e. energy, trans fat, protein, carbohydrates, fat, saturated fat, sodium and sugars, as well as any nutrient for which a claim was made) with a two-year grace period. When a claim was made on the amount of cholesterol or the amount and/or type of fat, then the amount of cholesterol, monounsaturated fat and polyunsaturated fat should also be declared. The Administration also decided to relax the requirements on labelling format, i.e., allowing the labelling of energy in either kilocalorie or kilojoule format and the labelling of nutrients in either per 100 g/ml or per serving format. Food products with annual sales volume of 30 000 units or below would also be exempted from the nutrition labelling requirements.

18. On the labelling requirements of core nutrients, while some members welcomed the inclusion of trans fat into the proposed scheme, they were disappointed with the exclusion of cholesterol, calcium and dietary fibre. The Administration explained that, as over 60% of prepackaged food in Hong Kong was imported from other countries/places, a balance between facilitating consumers' right to make informed food choices and maintaining variety of imported food had to be struck. While the adverse health effect of trans fat had been internationally recognized, only the United States and Canada required the labelling of cholesterol in food. In addition, cholesterol was not on the Codex's agenda for nutrition labelling.

19. Some members expressed reservations about the proposed relaxation of requirements on labelling format. They pointed out that, while per serving format would facilitate easy understanding of the nutrition information by consumers, per 100 g/ml format would facilitate the public in making a food choice as they could compare the nutrients of the food products with ease. The Administration explained that there was no standard format for expression of energy and nutrient value in the food labels among different jurisdictions. Having regard to the large number and variety of imported food in Hong Kong, stipulation of a rigid format for expression of energy and nutrient value would necessitate re-labelling of the food products of certain countries and might impact on their availability in Hong Kong market.

20. On the proposed two-year grace period, some members expressed concern about the difficulties to be encountered by small and medium sized food traders in complying with the statutory labelling requirements. Some other members considered that duration of the grace period could be shortened to six months or one year. At members' suggestion, the Administration undertook to issue guidelines on nutrition labelling requirements to the trade to facilitate its compliance.

21. On the proposed small volume exemption, some members considered that the proposed 30 000 units of annual sales volume for import exemption was too lax. They also expressed doubts whether it was feasible to implement the proposed exemption. Some other members were of the view that proposed exemption could strike a balance between the public's right to make informed choices and the interests of the trade. The Administration explained that small volume exemption would be subject to approval by DFEH under a pre-registration system. The food traders would report to the Food and Environmental Hygiene Department (FEHD) the sales volume of the exempted food items on a monthly basis. Once the sales volume exceeded the limit of 30 000 units per year, all food products concerned being put on the market would have to be labelled in accordance with the statutory requirements.

Food business licensing

Composite licence for ready-to-eat food

22. In response to the Panel's earlier views and suggestions on the proposed composite licence for the manufacture and sale of ready-to-eat food items, the Administration briefed the Panel on its revised proposal under which an operator would be given a free choice of any combination of 16 food items (e.g. soft ice-cream, frozen carbonated beverages, and coffee and tea, etc), several composite licences for different bundles of them, or separate licences/permits for each of them as presently allowed under the Food Business Regulation (Cap. 132X). The Administration also agreed to accept certification of compliance issued by authorized persons (APs)/registered professionals for the issue of a composite licence. FEHD would also simplify the licensing requirements and conditions for food items covered by the composite licence, and apply an

adapted version of the Demerit Points System (DPS) and warning letter system such that each food item under a composite licence would be treated as if it was under a separate licence on its own.

23. Members welcomed the Administration's revised proposal which could further facilitate the food trade. Regarding the concern over possible abuse of the certification system by APs/registered professionals, the Administration assured members that FEHD would conduct audit checks in respect of certification made by APs/registered professionals for food premises after the issuance of licences. Deliberate circumvention or fraudulent certification might lead to immediate cancellation of the composite licence in question and prosecution as appropriate.

24. The Administration further informed the Panel that a new on-line tracking service for food business-related licence applications would be launched in February 2008. Members welcomed the launching of the new service as it would help expedite the processing time of licence applications. The Administration also assured the Panel that the licence fee of the composite licence would not be more than the licence fees of the same number and types of ready-to-eat food items under the existing licensing regime.

Liquor licensing

25. The Subcommittee to Study the Streamlining of Food Business Licensing formed previously by the Panel had recommended that the Administration should consider the trade's suggestions to issue a liquor licence together with a food business licence and allow a company (instead of a natural person) to hold a liquor licence. In June 2008, the Administration advised the Panel that it would make reference to the Karaoke Establishment Ordinance (Cap.573) in exploring modifications to the Dutiable Commodities (Liquor) Regulations (Cap.109B) so that a person authorized by a company which wished to obtain a liquor licence could apply as the representative on its behalf.

26. The Panel welcomed the proposals on trade facilitation and regulation of upstairs bars and clubs and urged the Administration to introduce the necessary legislative amendments to effect the proposals into the LegCo in the 2008-2009 session. To further facilitate the trade, members suggested that the Administration could consider providing a "one-stop" service for applications of food premises and liquor licences, and issuing two different categories of liquor licences e.g. one for selling beverages with an alcohol content of less than 5% (such as beer) and the other with an alcohol content of more than 5%. The Administration responded that it would consult the Liquor Licensing Board on members' suggestions and its initial plan was to introduce the legislative amendments into the LegCo in the 2009-2010 session.

27. On the proposed extension of licence duration to not more than two years, most members considered that a stringent and clear mechanism should be put in place to monitor the licensed liquor selling premises for compliance

with the licensing conditions. It was suggested that reference could be made to DPS for licensed food premises. As regards the proposed control measures including imposing a more stringent limit on the number and capacity of liquor selling premises that might be housed in a building, there was a view that, when applying these new measures, the Administration should avoid affecting the business of existing licensed upstairs bars and clubs.

Control of Avian Influenza

Development of the poultry slaughtering and processing plant

28. In November 2007, the Administration briefed the Panel on its proposed legislative proposal for the development of the poultry slaughtering and processing plant (PSPP) to introduce a new regulatory framework for PSPP, require all live poultry to be transported to PSPP and ban retail sale of live poultry. The Administration's plan was to invite open tenders in 2008 from the private sector to develop PSPP under a "Build, Own, Operate and Transfer" ("BOOT") arrangement after the enactment of the proposed PSPP Regulations.

29. Members reiterated their concerns that the development of PSPP would not only lead to the monopolization of live poultry market and the supply of "freshly slaughtered chicken" by the licensee, but also affect adversely the relevant trade including wholesalers, retailers, workers and transporters. The Panel passed a motion urging the Administration to work out compensation proposals and reach a consensus with the affected trade before introducing the relevant legislation. A few members considered that the Administration must devise back-up measures in case PSPP failed to provide slaughtering service to the trade and make preparations against any health risk of "freshly slaughtered chicken". They also queried whether it was appropriate to develop PSPP under a BOOT arrangement and offer a fixed-term contract to the future PSPP licensee for as long as 15 years.

30. Some other members remained unconvinced that there was a need to develop a central slaughtering plant in Hong Kong. They suggested that the Administration should consider developing regional slaughtering plants in different locations.

31. The Administration responded that, as the main business of PSPP was to provide slaughtering and processing service, the development of PSPP would not give rise to monopolistic situation in the live poultry market. The PSPP licensee would be required to provide poultry slaughtering and dressing to all parties on a fair and equal basis with a standard slaughtering fee. The licensee was also required to seek prior approval from the Administration for engaging other businesses. The Administration further explained that, while the development of PSPP would have a greater impact on the retailers, its impact on the farmers, wholesalers and transporters should be minimal. The affected retailers could consider switching to the business of selling chilled or freshly slaughtered chickens.

Zonal approach policy on control of Highly Pathogenic Avian Influenza

32. The Panel discussed with the Administration the zonal approach policy on control of Highly Pathogenic Avian Influenza (HPAI). According to the Administration, the zonal approach policy was developed to control the import of live poultry and poultry products under different scenarios of HPAI outbreak in Guangdong Province (e.g. outbreak in registered/non-registered poultry farms, suspected outbreak in poultry farms and human infection).

33. While the Panel in general supported the Administration's proposed policy, some members raised queries about the considerations that the Administration would take into account in deciding whether a suspension for import of poultry and poultry products from the whole Guangdong Province for 21 days should be imposed. It was considered that, as there was a time lapse between the patient's disease onset and notification on confirmed human cases of HPAI infection from the Mainland authorities, the imposition of a suspension of the import of live poultry and poultry products from the "import control zone" for 21 days when a human case of HPAI infection within Guangdong Province was confirmed might not be effective.

34. Some members also pointed out that it was equally important for the Administration to enhance its efforts in combating smuggling activities of live poultry and poultry meat into Hong Kong from across the border. They suggested that the Administration could deploy quarantine detector dogs to carry out screening duties for the detection of smuggled live poultry and poultry meat by vehicles that came through Man Kam To Border Control Point.

Discovery of H5N1 avian influenza virus in chickens in public markets

35. On 16 June 2008, the Panel held a special meeting to discuss with the trade and the Administration the incident of the discovery of H5N1 avian influenza virus in chickens in public markets. The Administration advised that it would consider extending the 21-day suspension period for live chicken imports from the Mainland and live chicken supplies from local farms if preventive and control measures at the wholesale and retail levels could not be worked out with the trade. However, the trade representatives raised strong objection to the Administration's proposed enhanced measure of daily cleansing at and clearing of all live chickens from the wholesale market and retail outlets. They indicated clearly that live chicken wholesalers and retailers might simply choose to return their licences and end their business if the Administration insisted on implementing the new measure. This would inevitably affect local chicken farms which might also be forced to close down their operation.

36. To help ease the financial difficulties faced by the affected farmers, wholesalers, retailers, transporters and workers, the Panel urged the Administration to provide compensation/ex-gratia payment to them. In the

light of the Government's huge financial surplus and the trade's strong objection to the proposed enhanced measure at retail outlets, the Panel also called on the Administration to work out a more generous "ultimate" one-off compensation package to the trade for voluntary surrender of their licences. Some members considered that, given that there was no abnormality in local chicken farms and H5N1 virus was not detected in other markets, they considered that the Administration should lift the ban on the sale of live chickens from local farms in markets. It was also suggested that the Administration should allow the resumption of sale of chilled chickens at public markets where no H5N1 virus was found.

37. The Administration explained that the decision of suspending live chicken imports from the Mainland and live chicken supplies from local farms for 21 days was made with reference to the International Animal Health Code of the World Organization of Animal Health. Given that H5N1 virus had been found in four public markets, all markets and fresh provision shops selling live poultry had been declared an infected area. The Administration also advised that it would continue its discussion with the trade and hoped that a package of measures, including compensation/ex-gratia payment packages to the affected trade and the arrangement on the unsold live chickens in local farms, could be worked out. The Administration agreed to adopt a flexible approach in working out a compensation package to the traders should they choose to surrender their licences. It also undertook to revert to the Panel on its financial proposals before forwarding to the Finance Committee for funding approval in July 2008.

Environmental hygiene

38. The Administration briefed the Panel on the Anti-mosquito campaign 2008 in April 2008. Members asked whether the Administration had taken any measures to prevent the reoccurrence of ovitrap tampering case and whether it would review the present outsourcing system of mosquito control work.

39. The Administration responded that FEHD had two different teams of staff, headed by two Deputy Directors of FEHD, responsible for mosquito control operation work and monitoring of mosquito control work. After the occurrence of the ovitrap tampering case in 2006, FEHD had stepped up its efforts in monitoring the work of the contractor. The Administration also explained to the Panel that the design of ovitraps had been improved. Apart from sealing the ovitraps, caps had been added to cover the ovitraps to avoid any inadvertent spilling of mosquito control pesticides into them.

40. In view of wide public concern over the worsening rodent infestation problem, particularly in food premises, the Panel discussed the subject with the Administration in May 2008. The Panel questioned whether the Administration's anti-rodent campaigns were effective and whether FEHD staff had adequate experience and expertise to tackle the rodent infestation problem.

They observed that, despite an increase in overall rodent infestation rate in 2007 as compared to that of 2005 and 2006, there was a drop in the number of live/dead rodents collected and a sharp increase in the number of warnings issued over the same period.

41. The Administration responded that, in the light of public concern about rodent infestation, the anti-rodent campaign in 2008 had been extended from the original four weeks to 12 weeks. During routine inspections to licensed food premises, FEHD's health inspectors would disseminate health education messages and advice on rodent control and measures to enhance hygiene standards of the premises. The Administration further advised that FEHD had 18 Pest Control Officers in its Pest Control Advisory Section responsible for providing professional advice on the prevention and control of public health pests to government departments. Each district also had a pest control team with about nine to 22 front-line staff.

Supply of live pig

Sheung Shui Slaughterhouse

42. The Panel was gravely concerned about the shortage of live pig supply and the soaring prices of fresh pork. When discussing with the Administration the proposed enhancements to the terms of the future contract with the operator of the Sheung Shui Slaughterhouse (SSSH), the Panel was advised that, to address deficiencies in the current terms of the Operation Services Agreement (OSA), the future terms of OSA would be enhanced in several respects including lairage management, fees, information provision and disclosure, sanctions and incentives.

43. While members were generally supportive of the proposed enhancements, they were concerned about the possibility of monopolization of the market for fresh pork by the SSSH operator. It was suggested that the Administration should consult the Consumer Council and the Competition Policy Advisory Group (COMPAG) on the competition issues and the new OSA. The Administration advised that COMPAG had previously looked into the pork supply market and did not detect any unfair trade practice. The Administration also stressed that the new OSA would include clear provisions requiring the SSSH operator to allocate lairage spaces to all users of SSSH services and facilities on a non-discriminatory basis and to provide same options of services to all customers on an equal basis.

44. Given that the Administration's proposed enhancements relating to lairage management would only take effect after the expiry of the current OSA in July 2009, members asked about the measures that the Administration would put in place in addressing the problem of insufficient lairage spaces in the interim. The Administration responded that improvement works had been made to existing transit lairages to provide extra lairage spaces for the second and the third pig agents.

45. Members considered that the requirement on the future operator to submit requisite information to the Administration could help stabilize the prices of pork. However, it was stressed that the Administration should strike a right balance between the public's right to know and the trade's interests.

46. Some members were of the view that the Administration should consider further extending the term of its contract with the SSSH operator at the end of the 10-year contract term if the operator had an outstanding performance record. Some other members were concerned whether the selection criteria for tender offers were based solely on the proposed fee payable to the Administration. They considered that a proper weighting of each tender selection criteria including the experience/track record of the prospective operator should be set. The Administration advised that such kind of contracts would normally not be awarded for an indefinite period. In awarding the tender, quality of service would be given a higher priority, rather than the proposed fee payable.

Code of practice for pig farming

47. The Administration briefed the Panel on the Administration's proposal to introduce the code of practice for pig farming (COP) to licensed local pig farms. Members noted that the affected pig farmers had expressed concern over the proposed penalties for contravention of COP including reduction of the licensed rearing capacity and revocation/rejection of licence renewal. Sharing the pig farmers' concern, members queried how the Administration would implement and enforce the proposed penalty of reducing the licensed rearing capacity. It was suggested that there should be different penalties for different natures of breaches which would have varying degrees of threats to public health and rural environment.

48. Members also expressed concern about the appeal procedures on decisions related to cancellation of pig farm licences. They urged the Administration to consider setting up an appeal board in handling appeals for decision on pig farm licence revocation or rejection of licence renewal. Some members considered that the Administration should formulate a sustainable policy on the development of livestock farming and assist local pig farmers to set up their farms on the Mainland for exporting their pigs to Hong Kong.

49. The Administration explained to the Panel that the original licensed rearing capacity would be restored when all breaches of the requirements in COP had been duly rectified. Moreover, the Director of Agriculture, Fisheries and Conservation (DAFC) was already empowered under the existing legislation to revoke licences of those farmers who had violated the relevant provisions. The Administration also assured members that the power would only be exercised after adequate notification and warnings were given, and the farmers concerned would have the right to make representations. On members' suggestion for putting in place an appeal mechanism, the Administration agreed to discuss the issue with the Department of Justice.

50. The Panel held another meeting in April 2008 to gauge the views of the affected pig farmers on the proposed COP. The affected pig farmers expressed objection to the introduction of COP in particular the proposed penalties for non-compliance with the requirements in COP. Members remained of the view that the Administration should provide necessary veterinary services and technical service to help pig farmers enhance their pig farming practices and facilities. They suggested that the Administration should enhance the farming management standards of the pig farms through education. Members called on the Administration to reconsider the implementation of COP in respect of the imposition of the penalty of revocation of licence to regulate the operation of pig farms. They also reiterated their view that the Administration should provide a redress system under which pig farmers could appeal and make representations against the decisions of DAFC.

Provision of public markets

51. The Panel discussed with the Administration the review on the provision of public markets in May 2008. The Administration advised that it would revise the population-based planning standard for public markets in the prevailing Hong Kong Planning Standards and Guidelines, and discuss with the District Councils the cost-reduction measures and proposals to revitalize public markets with viability problems.

52. Members questioned the considerations which the Administration would take into account in determining whether a public market should be closed down. It was suggested that the Administration should rethink its policy of providing financial incentives/compensations to the affected tenants if the option of closing down public markets with viability problems was to be taken forward. Given the high market stall vacancy rates (MSVRs) for public markets, some members also questioned the cost-effectiveness of the general improvement works to the 19 existing public markets and cooked food centres.

53. The Administration explained that, for public markets with a consistently high MSVR exceeding 60% for three consecutive years, the DC concerned would be consulted on improvement measures. The option of closing down of public markets would only be pursued as a last resort. According to the Administration, there was a 5% to 10% overall increase in business volume comparing the stall occupancy rate before and after completion of the improvement works.

54. As regards the future provision of new public markets, some members considered that a comprehensive review on the public markets, including the planning, design, facilities, management and the existing number of markets/supermarkets in the vicinity, should be undertaken. They suggested that the Administration should consider seeking professional expertise from the business sector to advise on the review.

Hawker licensing policy

55. The Administration briefed the Panel on the review on hawker licensing policy in June 2008. On fixed-pitch hawker licence, the Administration proposed that, provided the current number of fixed pitches was maintained, consideration might be given to issuing licences to new operators for trading in the vacant pitches or allowing licensees of adjacent pitches to use the vacant pitches as an expanded business area. For itinerant (frozen confectionary) hawker licence (commonly known as "small ice cream vendors") and itinerant (mobile van) hawker licence (commonly known as "ice cream van"), the Administration would consider re-issuing a fixed number of these licences provided that the food safety and environmental hygiene conditions would not be jeopardized.

56. The Panel welcomed the Administration's proposals and urged its early implementation. It was suggested that the Administration should provide assistance to the licensed hawkers in improving the design of 'Dai Pai Tongs' so that they could meet the present-day hygiene and environmental standards. There was another suggestion that the Administration should consider identifying new sites to accommodate more 'Dai Pa Tongs'.

57. As regards the proposal of specifying a validity period (e.g. three or five years) and disallowing further succession or transfer in respect of new licences, members were concerned that this might discourage new comers to enter the trade as they might face difficulties in recovering fixed costs of their investment. They also raised various concerns relating to the ineligibility of the existing deputies/assistants to the licensed hawkers to succeed or replace the licensee.

58. The Administration explained that holders of fixed-pitch hawker licences might appoint a person to be their deputies during their absence from Hong Kong. However, any permission granted in this respect should not exceed a period of six months. Fixed-pitch hawker licensees might also employ assistants to help them carry on their business, but registration of the assistants only served a record and identification purpose. Under the new proposed arrangements, the deputies and assistants would have the opportunity to apply for new licences.

Animal welfare and regulation on the pet trade

59. In February 2008, the Panel discussed with the Administration its preliminary legislative proposals to amend the Prevention of Cruelty to Animals Ordinance (PCAO) (Cap.169) to further safeguard animal welfare (including the early release or disposal of seized animals and power of a Magistrate to prohibit further keeping of animals etc.) and the Public Health (Animal and Birds) (Animal Traders) Regulations (Cap.139B) (including increasing the maximum penalty for illegal trading and empowering DAFC to

revoke licence etc). To enhance regulation on the pet trade, the Administration also proposed to revise the licensing conditions for animal traders to require them to source animals from legitimate sources.

60. Members welcomed the Administration's proposals, and considered that the Administration should strive for early implementation of the revised licensing conditions prior to the introduction of legislative amendments. They, however, considered that the definition of the acts of cruelty to animals under PCAO was outdated and were of the view that abandonment of animals should be included as one of the "cruelty acts". They urged the Administration to conduct a comprehensive review of PCAO. Some members also considered the "Trap-Neuter-Return" programme an effective and humane measure in reducing the numbers of stray cats and dogs. They urged the Administration to implement the programme expeditiously.

61. As regards the proposed exemption for the "hobby breeders", most members expressed worry that illegal pet breeders could claim themselves as "hobby breeders" and it might create a loophole in the regulatory framework. The Administration pointed out that, under the current legislation, a person who sold or offered to sell any animal or bird kept by him/her as a pet or any offspring thereof was not defined as an animal trader. On the concern of definition of "hobby breeders", the Administration would set some restrictions whereby hobby breeders would only be allowed to keep not more than two entire bitches of the same breed at their premises. Pet shop owners would be required to apply to Agriculture, Fisheries and Conservation Department (AFCD) for receiving pet dogs from "hobby breeders", and the puppies should be certified by practicing veterinary surgeons that they were born in Hong Kong.

62. The Panel held another meeting to discuss with the Administration, pet breeders and animal welfare groups on the additional licensing conditions for animal trader licence (ATL) in May 2008. The deputations expressed concern that the granting of exemption of "hobby breeders" might create a loophole subject to abuse by animal traders. Members also queried how the Administration could monitor the implementation of the requirement for "hobby breeders". The Administration reiterated that AFCD would only issue special approval to a licensed animal trader if the animal trader had provided the relevant certificates issued by registered veterinary surgeons as prescribed in the licensing conditions. On the animal concern groups' suggestion of regulating the maximum number of litters of dogs, the Administration explained that there were practical difficulties in prescribing the number of litters of puppies to be produced by breeding bitches as a measure to regulate pet breeding by "hobby breeders".

63. Some members queried the suitability of applying the licensing conditions for animal traders to pet breeders and the need for the long time required for processing an application for ATL. They suggested that the Administration could consider drawing up a performance pledge for approving

the licence applications for ATL and a "one-stop" service for ATL applications. The Administration explained that there were different licensing conditions for different types of animal traders e.g. pet shops selling dogs, birds, dog breeders etc. The Administration agreed to discuss with relevant departments the suggestion of drawing up the performance pledge.

Other issues

64. The Panel received briefings from the Administration on the Chief Executive's Policy Address 2007-2008 and the staffing proposal of creating an Administrative Officer Staff Grade "C" post in the Food Branch of the Food and Health Bureau. The Panel was also briefed on the rationalization of the time limit for prosecutions against unauthorized building works in premises licensed by FEHD.

65. Between October 2007 and June 2008, the Panel held a total of 11 meetings. The Panel conducted an overseas duty visit to France and the United Kingdom in March 2008 to study the policies and regulatory frameworks of food safety put in place in these countries.

Council Business Division 2
Legislative Council Secretariat
27 June 2008

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

Terms of Reference

1. To monitor and examine Government policies and issues of public concern relating to food safety, environmental hygiene and agriculture and fisheries.
2. To provide a forum for the exchange and dissemination of views on the above policy matters.
3. To receive briefings and to formulate views on any major legislative or financial proposals in respect of the above policy areas prior to their formal introduction to the Council or Finance Committee.
4. To monitor and examine, to the extent it considers necessary, the above policy matters referred to it by a member of the Panel or by the House Committee.
5. To make reports to the Council or to the House Committee as required by the Rules of Procedure.

**Legislative Council
Panel on Food Safety and Environmental Hygiene**

Membership list for 2007-2008 session

Chairman Hon Tommy CHEUNG Yu-yan, SBS, JP

Deputy Chairman Hon Fred LI Wah-ming, JP

Members Hon WONG Yung-kan, SBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH
Dr Hon Joseph LEE Kok-long, JP
Hon Alan LEONG Kah-kit, SC
Dr Hon KWOK Ka-ki

(Total : 10 members)

Clerk Miss Flora TAI

Legal adviser Mr Stephen LAM

Date July 2008