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Panel on Food Safety and Environmental Hygiene

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 14 April 2009**

Review on hawker licensing policy

Purpose

This paper gives an account of the past discussions by the Panel on Food Safety and Environmental Hygiene (the Panel) on the review on hawker licensing policy.

Background

2. The Administration has stopped issuing new hawker licences under normal circumstances since the early 1970s. Succession and transfer of hawker licences already issued are also subject to stringent restrictions. A hawker licence will be cancelled upon the death of the licensee. "Succession" of a licence refers to the issuance of a new licence to the immediate family member of a deceased licensee. If a licensee, on grounds of, for example, old age or ill health, makes an application for his family member to replace him as the licensee, it will be regarded as a licence "transfer". The succession and transfer restrictions for different types of hawker licences are as follows -

- (a) General Fixed-Pitch Hawker Licence can be succeeded by or transferred to the "immediate family member" of the licensee (i.e. parent, spouse, son or daughter).
- (b) "Dai Pai Tong" licences, also a kind of Fixed-Pitch Licences, may only be succeeded by or transferred to the licensee's spouse according to current arrangements.
- (c) Succession to and transfer of Itinerant Hawker Licence is not allowed. Itinerant Hawker Licences are classified into three main categories, namely Itinerant Hawker Licences for selling wet and dry goods, Itinerant (Frozen Confectionary) Hawker Licences (commonly known as "small ice cream vendors") for selling frozen pre-packaged

confectionary such as ice-cream, and Itinerant (Mobile Van) Hawker Licences (commonly known as "ice cream vans") for selling soft ice-cream from pre-prepared mixture.

Voluntary surrender scheme for hawker licences

3. As "Dai Pai Tongs" and itinerant hawkers were more likely to cause environmental hygiene problems, noise nuisance as well as obstruction of public passages, a five-year voluntary surrender scheme for hawker licences was introduced in 2002 to encourage "Dai Pai Tong" licensees and itinerant hawkers to surrender their licences voluntarily in exchange for a one-off ex-gratia payment, rental of a vacant stall in public markets/cooked food centres under concessionary terms, or becoming a (non-cooked food) fixed pitch hawker. The voluntary surrender scheme applicable to "Dai Pai Tongs" ended on 30 November 2007, while the scheme applicable to itinerant hawkers has been further extended to 31 December 2009.

Past discussions

4. At the meeting on 10 June 2008, the Panel was briefed on the Administration's preliminary ideas on hawker licensing policy review as follows -

Issuing new hawker licences

(a) *Fixed-Pitch Hawker Licence*

- (i) Consideration might be given to issuing licences to new operators for trading in the vacant pitches or allowing licensees of adjacent pitches to use these vacant pitches as an expanded business area while paying the relevant fees, provided that the current number of fixed pitches was maintained.
- (ii) District Councils (DCs) might, when a "Dai Pai Tong" was closing down because of the death of the licensee or other reasons, advise the Government on whether that "Dai Pai Tong" should be allowed to continue to operate in situ, having regard to the specific circumstances of the district and the residents' aspirations. If the DC indicated support for the continued operation of the "Dai Pai Tong" in situ, consideration might then be given to arranging for the succession and transfer of licence to "immediate family members" apart from the spouse of the licensee or issuing a new licence to an interested operator.

(b) *Itinerant Hawker Licence*

- (i) Existing policy of not issuing new itinerant hawker licences for selling wet and dry goods should be maintained.

- (ii) Existing arrangement that there should be no succession or transfer of itinerant hawker licences should be maintained.
- (iii) Re-issuance of a fixed number of Itinerant (Frozen Confectionary) Hawker Licences and Itinerant (Mobile Van) Hawker Licences should be acceptable, provided that the food safety and environmental hygiene conditions would not be jeopardised.

Validity period and succession and transfer of hawker licences

- (i) Consideration might be given to specifying a validity period, say, three or five years, for new hawker licences, including those issued on "succession" or "transfer" of licences, and disallowing further succession or transfer of these licences.

5. Hon Tommy CHEUNG was of the view that as on-street "Dai Ping Tongs" were part of local heritage that deserved preservation, the Administration should re-issue "Dai Ping Tong" licences if suitable sites could be identified.

6. Some members, including Hon Fred LI and Hon WONG Yung-kan, were of the view that imposing a validity period for new hawker licenses and disallowing further succession or transfer of these licences would discourage interested operators from entering the trade.

7. The Administration pointed out that hawker licences should not be regarded as commodities available for free transfer or trading in the market. Specifying a validity period for new hawker licences and disallowing further succession or transfer of these licences would maintain the vitality of the trade through the keeping of the right to operate mobile, and affording opportunities to those interested in entering the trade.

8. Concern was raised about the adverse impact of the re-issue of Itinerant (Frozen Confectionary) Hawker Licences and Itinerant (Mobile Van) Hawker Licences on the existing licensees. The Administration advised that the re-issue of any type of hawker licences would be carried out in a fair and just manner and the detailed arrangements were being studied.

9. On the criteria for issuing new hawker licences, the Administration's initial thinking was that no existing licensee would be allowed to apply for another hawker licence. Applicants for "Dai Ping Tong" licences would be accorded a lower priority if they were holders of food business licences.

10. On 10 February 2009, the Administration briefed the Panel on the views received from DCs and over 20 hawker associations on the Administration's preliminary ideas on the review on hawker licensing policy and sought members' view on the way forward. Members noted that DCs, hawker associations and relevant stakeholders were generally supportive of the proposals. Having considered the

views of DCs and hawker associations, the Administration further proposed to -

- (a) give priority to fixed pitch hawkers at the front row in taking up adjacent vacant fixed pitches in the back row;
- (b) explore the room to relaxing the existing limit of setting two tables and eight stools in front of the "Dai Pai Tong" having regard to objective factors, such as the location of the "Dai Pai Tong", and seek DC's views on it;
- (c) terminate the voluntary surrender scheme for itinerant hawkers upon its expiry on 31 December 2009 in order to encourage itinerant hawkers to voluntarily surrender their licences as soon as possible; and
- (d) additionally issue not more than 30 new Itinerant (Frozen Confectionery) Hawker Licences.

11. Some members, including Hon WONG Yuk-man, Hon KAM Nai-wai, Hon Cyd HO and Hon WONG Yung-kan, were of the view that the Administration should have regard to the values of the hawking trade on improving people's livelihood and stimulating local economy, which were particularly pertinent in this time of economic downturn, in the review on hawker licensing policy.

12. The Administration recognised that street hawking had a long history in Hong Kong. It also provided job opportunities and customers might find a cheaper source of goods. There was, however, a need to strike a balance in fostering the hawking trade and preventing environmental hygiene problems, noise nuisance and obstruction to public passageway. As about 1 300 of the about 8 000 fixed pitches were still vacant, the Administration would not consider increasing the number of additional new fixed-pitch licences for the time being until after all proposed efforts aimed at reducing the vacancy rate, such as giving priority to fixed pitch hawkers at the front row in taking up adjacent vacant fixed pitches in the back row, had attracted more new operators.

13. Whilst welcoming the Administration's proposal to additionally issue 30 new Itinerant (Frozen Confectionery) Hawker Licences thereby increasing the total number of licences from the existing 28 to 58, Hon WONG Kwok-hing urged the Administration to further increase the number of these licences having regard to the difficulty of low-skilled persons in securing employment in the current poor economic climate.

14. The Administration advised that it would review the need for adjusting the number of Itinerant (Frozen Confectionery) Hawker Licences from time to time. The Administration would proceed with the issuing of additional new Itinerant (Frozen Confectionery) Hawker Licences before the completion of the review on hawker licensing policy, if members so supported.

15. On the suggestion of issuing more new Itinerant (Mobile Van) Hawker Licences, the Administration advised that the possibility of issuing new licence of this type might be further discussed when technology development in future could solve the problem of prolonged running of engines during operation of ice cream vans.

16. Hon Tommy CHEUNG opined that instead of waiting for DCs to propose issuing new Fixed-Pitch (Cooked Food or Light Refreshment) Hawker Licences to operate "Dai Pai Tong" in vacant pitches previously used to operate "Dai Pai Tong", the Administration should take the initiative in consulting DCs on allowing new operators to trade in these vacant pitches.

17. Hon Audrey EU pointed out that open-air bazaars could help to boost Hong Kong's tourism attraction and provide job opportunities. Open-air bazaars needed not be confined to selling goods and could take various forms, such as serving as a venue for art performances, and could have different modes of operation, such as operating during night time or weekends. Ms EU urged the Administration to explore with DCs on establishing open-air bazaars in their districts, as open-air bazaars established by members of the public generally had wider appeal than those established by the Administration.

18. At the meeting on 10 March 2009, members received views from hawker associations and other stakeholders on the review on hawker licensing policy.

19. Hon WONG Kwok-hing asked when the Administration would open the some 1 300 vacant pitches, referred to in paragraph 12 above, for applications for issuing new fixed pitch hawker licences. The Administration responded that subject to members' support at the meeting, the Food and Environmental Hygiene Department (FEHD) would formulate concrete proposals on the issue of new licences with regard to the number, location and type of vacant pitches in each district, and submit them to the respective DCs for discussion within six months.

20. Members were of the view that priority should be given to registered assistants, who generally had ample experience in operating hawker stalls, to apply for hawker licences for trading in the vacant pitch.

21. The Administration advised that vacant pitches should be allocated in a fair and open manner. Hence, the Administration could not agree to the suggestion of giving priority to existing registered assistants to select the vacant pitches after the fixed pitch hawker licensees had taken up their adjacent vacant pitches in the back row or otherwise. Existing registered assistants might submit applications for issuing new hawker licences as other people interested in joining the hawking trade. Even if priority were given to the existing some 5 600 registered assistants to select the vacant pitches, there would not be enough vacant pitches to go around. There were at present about 1 300 vacant pitches, and it was estimated that some 800 of them would be taken up by existing fixed pitch hawker licensees.

22. Some members, including Hon WONG Kwok-hing, urged the Administration not to tie the issuing of the 30 additionally new Itinerant (Frozen Confectionery)

Hawker Licences with the cessation of the voluntary surrender scheme for Itinerant (Frozen Confectionery) Hawker Licences, as to do so would deprive licensees of the opportunity to earn more money in the coming summer season before leaving the trade for good.

23. The Administration explained that to issue new Itinerant (Frozen Confectionery) Hawker Licences after the cessation of the voluntary surrender scheme for Itinerant (Frozen Confectionery) Hawker Licences was to ensure prudent use of public money. Moreover, existing licensees had ample time to consider surrendering their licences as the expiry date of the voluntary surrender scheme for itinerant hawkers was originally 30 November 2007.

24. Members also urged the Administration to be more lenient in taking enforcement against hawkers, having regard to the present poor economic climate.

25. The Administration advised that prosecutions against hawkers were mainly on unlicensed hawkers. In view of the present economic downturn, FEHD had reminded Hawker Control Teams to relax the enforcement action against hawking activities provided that food and environmental hygiene would not be compromised and there was no serious street obstruction. Generally speaking, the hawkers would be verbally warned to disperse. Prosecution action would only follow if the verbal warning was unheeded.

26. In view of the cultural, societal and economic values of hawking, members requested that the Secretary for Food and Health should take up with the relevant policy bureaux on the formulation of a new hawking policy and revert to the Panel at the next regular meeting on 14 April 2009.

Relevant papers

27. Members are invited to access the Legislative Council website (<http://www.legco.gov.hk>) for details of the relevant papers and minutes of the meetings.

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