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Panel on Food Safety and Environmental Hygiene

Report of Subcommittee on Hawker Policy

Purpose

This paper reports on the deliberations of the Subcommittee on Hawker Policy ("the Subcommittee") formed under the Panel on Food Safety and Environmental Hygiene ("the Panel").

Background

2. In the early post-war years, hawkers were generally regarded as a means of making a living for the grassroot and a convenient and non-expensive source of daily necessities. During Hong Kong's development towards modernity, hawking, as it does not involve shop rentals and renovation, is a retail mode of low entry threshold, and offering an opportunity for the lower class to start a business and move socially upward. While many customers might find on-street trading convenient, on-street hawking activities might cause obstruction, environmental nuisance or even hazards relating to hygiene and fire risks for the residents living nearby. As the community became more affluent in the course of time, other forms of retail outlets and food premises are available in the market. There is also an increasingly keen competition for land as population and economic activities grow.

Hawker policy in Hong Kong

3. There are two main types of hawker licence, namely fixed-pitch hawker licence and itinerant hawker licence ("IHL"), in Hong Kong. According to the Administration, Government's policy towards hawkers and hawking, which underpins the relevant licensing and management arrangements, has evolved in tandem with changes in community needs and aspirations, some of which may stem from divergent values and perspectives. The details of the development history are set out in the papers discussed at the Subcommittee meetings on 15 April 2014

(LC Paper No. CB(4)566/13-14(01)) and 2 March 2015 (LC Paper No. CB(4)561/14-15(01)). It has been the Government's official position since the early 1970s that no new hawker licences should normally be issued and that on-street licensed hawkers should be put into public market buildings or off-street hawker bazaars as far as practicable. According to the Administration, the hawker control policies adopted by the former Municipal Councils and their provisional bodies were to dissociate welfare considerations from hawker licensing and hawking activities, reduce on-street and illegal hawking activities, exercise higher enforcement priorities against illegal hawkers selling food items, protect public market stall operators' against unfair competition from illegal hawkers, stop issuing new hawker licences under normal circumstances and restrict the succession and transfer of existing hawker licences.

- 4. Following the dissolution of the two former Municipal Councils and its establishment in 2000, the Food and Environmental Hygiene Department ("FEHD") has continued to pursue the above policies on hawker control and licensing. Over the years, FEHD has conducted reviews and implemented measures in respect of hawker policy as follows (with details set out in **Appendix I**)
 - (a) revised enforcement strategies in 2001;
 - (b) voluntary surrender scheme for hawker licences in 2002;
 - (c) review of hawker licensing policy in 2008;
 - (d) issue of fixed-pitch hawker licence to former tobacco hawkers or retailers in 2010;
 - (e) public consultation on management of fixed-pitch hawkers in 2011 and 2012; and
 - (f) five-year Assistance Scheme for Hawkers in Fixed-pitch Hawker Areas ("the 5-Year Scheme") in 2013.
- 5. The decision of not issuing new hawker licences under normal circumstances coupled with the gradual changes in the shopping habits of the population and the growing competition from other retail outlets (especially chain stores) have led to a gradual reduction in the number of licensed hawkers. As at 31 December 2014, the total number of licensed hawkers was about 6 300, compared with about 20 000 in the late 1980s. Further information and breakdown on the types and number of hawker licences are at **Appendix II**.

Present-day Hong Kong

6. As illustrated in the following table, rentals of shops in private market as well as in the Link REIT ("the Link")¹ are soaring in the last decade. According to the Rating and Valuation Department, the average monthly rentals of private retail (which also cover the properties owned by the Link) have increased by 59%, for the Link, by 86%.

	Private retail – rentals per square meter per month ⁽¹⁾ (% change)		The Link's shops - rentals per square	
Year	Hong Kong	Kowloon	New Territories	foot per month (2) (% change)
2006	1,001	999	778	22.7
2007	1,060	1,023	814	23.3
	(+5.9%)	(+2.4%)	(+4.6%)	(+2.6%)
2008	1,189	1,106	892	25.1
	(+12.2%)	(+8.1%)	(+9.6%)	(+7.7%)
2009	1,079	1,073	855	28.2
	(-9.3%)	(-3.0%)	(-4.1%)	(+12.4%)
2010	1,239 (+14.8%)	1,172 (+9.2%)	942 (+10.2%)	30.3 (+7.4%)
2011	1,296	1,243	1,038	32.6
	(+4.6%)	(+6.1%)	(+10.2%)	(+7.6%)
2012	1,465	1,443	1,161	36.0
	(+13.0%)	(+16.1%)	(+11.8%)	(+10.4%)
2013	1,549	1,482	1,176	38.7
	(+5.7%)	(+2.7%)	(+1.3%)	(+7.5%)
2014	1,628	1,534	1,250	42.3
	(+5.1%)	(+3.5%)	(+6.3%)	(+9.3%)
Overall change	62.6%	53.6%	60.7%	86.3%

Notes -

1. These figures also cover the properties owned by the Link. Source: http://www.rvd.gov.hk/.

2. These are annual figures ended on 31 March for the years concerned. Source: http://www.linkreit.com/.

7. In order to remain sustainable, shops have to sell commodities at a correspondingly high price which are becoming unaffordable to the low-income and even middle-income groups. Moreover, small businesses which do not have sufficient patronage have to close down their shops. In this way, many small street-shops are replaced by chain stores selling

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The Chinese name of the Link was changed from "領滙房地產投資信託基金" to "領展房地產投資信託基金" with effect from 19 August 2015.

branded products, and as a result, many shops of low competitiveness, especially old shops, have been forced out of the shop market. ²

- 8. In view of the above, there is a call for supporting the development of hawking activities. On-street hawking allows customers to continue engaging in competitive transactions, and provides alternatives to homogenous shopping malls and chain stores. A good hawker policy will help general public to resist the hegemony of private developers and the Link. Indeed, as pointed out by some Subcommittee members, the presence of hawkers (and wet markets) can prevent the oligopoly of daily supplies by several supermarkets in Hong Kong.
- 9. On the other hand, hawking activities might give rise to environmental hygiene and noise problems as well as obstruction to public passageways, thus causing nuisance to nearby residents and pedestrians. Shopkeepers selling similar and substitutable products in commercial premises nearby might consider rent-free on-street hawking activities posing unfair competition.

Overseas hawker policies

- 10. Members studied the hawker policies adopted in Taiwan, Singapore, Australia, and Thailand. They also noted the Administration's information related to management and control of hawkers in South Korea, Japan and the Mainland, as well as its remark that different cities adopt different approaches to managing hawking activities at different points in time, taking into account a wide array of factors such as availability of suitable locations and economic situation etc.. In general, members supported borrowing experience from overseas places with a view to adopting a more flexible approach in developing the hawking trade. The features of hawker policies in each of the places studied are highlighted below.
- 11. In Taiwan, the Taipei City government recognizes that hawking cannot be eradicated but must be managed instead and it relies heavily on hawker associations to manage the hawkers. A hawker association is a self-regulated and self-managed body tasked with solving vendor disputes, collecting waste, controlling environmental pollution, and maintaining the order and traffic flow on its turf. According to the recommendation of

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As suggested by the Administration, the closure of small street-shops may also be due to the fact that over the last two decades, local and international trade has registered a sea-change, and retail shops selling common products with little scope for economy of scale are gradually losing their competitiveness, the rise of operational cost and raw materials (from the then appreciation of Renminbi or other policy such as minimum wage), increasing diversity of products available in spacious and air-conditioned supermarkets and chain stores, dropping demand for certain services or goods, the growing prevalence of internet trading, and the absence of successors to take up some traditional businesses etc.

a survey report published in 2011, the Taipei City government should reallocate hawker stalls in temporary centralized fields for vendors to those undocumented hawkers in need, and provide counseling services to help these hawkers transform into formal business owners. The survey also found that more college graduates in Taiwan have taken up hawking as their occupation in recent years.

- 12. Singapore moved on-street hawkers indoor by building hawker centres in the 1970s to 1980s. In 2011, the Singaporean government announced its plan to build 10 new hawker centres to add some 600 cooked food stalls in the next decade with a view to creating a stabilizing effect on food prices by exerting a downward pressure on stall rentals due to more supply over time. The new centres would be operated on a not-for-profit basis by social enterprises or cooperatives. All food establishments would be awarded a grade based on the overall hygiene, cleanliness and housekeeping standards of the premises. In addition, a points demerit system would be introduced to penalize food handlers for any lapse in maintaining good personal and food hygiene. Separately, the Stall Ownership Scheme launched in 1994 enabling stallholders to buy the stalls on a 20-year lease at a discount was discontinued in 1998.
- In Australia, the local government of Melbourne supports and encourages street trading in public places by issuing long-term and shortterm permits with the aim of building a lively street environment and enriching city life. Besides, markets are also a common means for vendors to sell a wide range of goods and services to the general public. In particular, the Queen Victoria Market, run by the local government, is not only a shopping place for local residents but also a major tourism attraction for visitors. A causal stallholder can apply for a permanent stall after having operated for a period of time. Meanwhile, the governmentrun Arts Centre Melbourne Sunday Market brings together local artists and designers to promote and sell the locally produced products. There are also various non-government run markets managed by event organizers, not-for-profit organizations and commercial entities. These are ideal outlets for small and new businesses to market their products at a "fair" price.
- 14. For Thailand, the high unemployment rate in Bangkok during the Asian financial crisis in 1997 has led to the emergence of new-generation street vendors. They make use of their commercial and entrepreneurial skills to create their own street vending businesses in the city. Many of them run multiple stalls in markets located in strategic areas (such as central business districts and popular tourist spots) and target at high-end customers to earn relatively higher profit margins. Some have even developed their own brand names or established their own factories, and their stalls serve as the outlet and/or wholesale distribution network for

the goods produced by them. With the emergence of new-generation street vendors, street vending in Bangkok is a career choice for many educated people.

The Subcommittee

- 15. The Subcommittee was appointed by the Panel on 9 July 2013 to study and review the hawker policy, and the first Subcommittee meeting was held on 15 April 2014. The terms of reference and membership of the Subcommittee are set out in **Appendices III and IV**. Approval of the House Committee was obtained on 20 March 2015 for the Subcommittee to continue its work until 14 October 2015.
- 16. Under the chairmanship of Hon Steven HO Chun-yin, the Subcommittee held a total of nine meetings³ and received views from 79 deputations. Members also had fruitful exchanges with the Administration at a brainstorming session organized by the latter. A list of the deputations which have given views to the Subcommittee is in **Appendix V**.
- 17. Two academics, Professor NG Mee-kam, Professor and Vice-Chairman, Department of Geography and Resources Management, Chinese University of Hong Kong, and Professor LUI Tai-lok, Chair Professor, Department of Asian and Policy Studies, Hong Kong Institute of Education, have met with the Subcommittee on several occasions and provided valuable inputs to the Subcommittee. Members of the Subcommittee would like to take the opportunity to express their appreciation on the contribution made by the two professors.

Deliberations of the Subcommittee

The Subcommittee's concerns

18. At the first two meetings of the Subcommittee held on 15 April and 16 June 2014, several members have observed with grave concerns the Government's current policy focusing on regulating hawking and hawkers rather than developing the hawker trade which provide opportunities for lower class people to move socially upward. Some of them have disagreed with the Administration's view that the gradual reduction in the number of licensed hawkers is due to people's changing shopping habits and availability of other forms of retail outlets and food premises. Instead, they consider that the decline is caused by the stringent

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These include seven open- and two closed-meetings.

enforcement actions seeking to eradicate hawking. The lack of a comprehensive policy to promote and develop the hawking trade is also a major reason of the decline. In response to members' views, the Government clarified the enforcement policies that the hawkers would be orally warned and asked to disperse and if the oral warning is unheeded, prosecution action would follow. 4

- The Subcommittee has urged the Government to formulate its hawker policy from a "development" perspective rather than regulating hawking under a "management and control" regime. They have suggested revamping the hawker policy by a sea change to enable the hawkers be perceived as an integral part of Hong Kong's development towards modernity, sustainability and better living. Members have also suggested that relevant bureaux should be invited to contribute to the formulation of such a policy, from the angles of town planning and urban renewal, promotion of tourism and local economy, preservation of traditional characteristics, creation of employment opportunities and alleviation of poverty. As members considered that the development of the hawking trade should involve cross-bureaux effort, the Subcommittee therefore wrote to the Chief Secretary for Administration ("CS") expressing concerns about the need for the bureaux concerned to play a role in the formulation and implementation of hawker policy. With the support of CS, the Subcommittee met with representatives from the Food and Health Bureau ("FHB"), Commerce and Economic Development Bureau ("CEDB"), Labour and Welfare Bureau, Home Affairs Bureau, FEHD, Planning Department and Home Affairs Department.
- 20. Members have also requested the Government to preserve the hawking trade and identify venues suitable for hawking activities in the course of urban renewal. Some of them have suggested the Government to consider issuing new hawker licences and setting up hawker bazaars and night markets. The existing cooked food centers should also be refurbished with a view to attracting more patronage upon improvement of the operating environment. In addition, members have suggested that the Government should learn from the successful experience of cooked food street stalls and night markets in places such as Taiwan and Singapore, and consider if the relevant measures can be applied in Hong Kong.

If both licensed and unlicensed hawking activities do not fall within (a) sale of prohibited/restricted or cooked foods be strictly forbidden and subject to stringent enforcement action; and (b) Maintaining hawker-free situation in major thoroughfares, areas of high pedestrian flow such as tourist spots and pedestrian precincts and Mass Transit Railway/Kowloon Canton Railway entrances/exits etc., and places under substantiated and repeated complaints of hawking activities, they would be accorded a lower priority for enforcement.

- 21. In order to better understand members' views and concerns about development directions and concrete proposals of the hawker policy, FHB invited the Subcommittee to attend a brainstorming session held in early January 2015. A list of questions (**Appendix VI**) was prepared to facilitate members' discussion.
- 22. After the brainstorming session, the Administration has set out for members' consideration eight principles for formulation of local hawker policy and five proposals on hawker management (LC Paper No. CB(4)561/14-15(01)). At the meetings on 14 April 2015, the Subcommittee received public views from 77 deputations/individuals on the Administration's proposals set out in the paper. The summary of views and the Administration's response is in **Appendix VII**. The views of the Subcommittee and the deputations on the principles and proposals are set out in the ensuing paragraphs below.

Principles for policy formulation

- 23. Having studied overseas experience, taken into account the present-day circumstances in Hong Kong and struck a sensible balance among competing and evolving considerations, the Administration considered that further evolution of the local hawker policy should be premised on the following eight principles
 - (a) should not have a policy bent on eradicating hawking for the sake of eradicating it. Regulatory and supportive measures should be put in place with a view to upholding the Administration's commitment to ensuring food safety, and maintaining a clean and hygienic living environment for the people of Hong Kong, especially for those residing in the vicinity of areas designated for hawking;
 - (b) avoid positioning the hawker trade as a form of social welfare for the disadvantaged or for poverty alleviation as hawking policy is deployed as one of the means to promote small business:
 - (c) diversification of the local economy is a worthwhile cause and hence, hawking should not be prohibited unless it runs counter to other public policies;
 - (d) while room for traditional or creative cultural activities and/or handicrafts should be allowed, their promotion should not be an excuse to justify insulation from market forces, i.e. the hawker concerned should identify a mode of operation and a market niche to sustain the hawking business in question;

- (e) the Government should keep an open mind towards districtled proposals on local bazaars and the mode of operation, so long as food safety and environmental hygiene would not be compromised;
- (f) proposal gestated within the local community, i.e. a bottomup approach, would stand a much better chance of enjoying broad local support, local participation and ownership, in addition to meeting local needs;
- (g) with district support, consideration may first be given to utilizing existing fixed-pitch hawker areas, if any, in the district; and
- (h) if district-led proposals with community consensus are put up, FHB and FEHD are happy to facilitate liaison with the relevant bureaux/departments.

Positioning of hawking trade

- 24. Members as well as deputations generally welcome the principles, in particular the idea of gestating bottom-up and district-led hawking proposals which is in the right direction of "developing" the hawking trade. According to Professor NG, "development" refers to social sustainability, which includes preservation of local environment and social assets, along with the development of market economy. Such development could be boosted through, among others, the adoption of the principle of reciprocity to attain mutual benefits. She also considers that "local" highlights the local elements of own creative and traditional style and hence is a more appropriate label for bazaars. Professor LUI also points out that hawking is a kind of urban informal economy developing outside the existing regulatory framework.
- 25. Members in general also agree that bottom-up and district-led hawking propositions can meet local community needs, which are district-specific, and thus could serve different purposes according to the district needs, such as for promoting small business, providing social welfare, alleviating poverty, and/or serving as tourist attractions and so on. Indeed, there is no one way to deal with hawkers that could apply to all districts. Nevertheless, the Administration has clarified that the bottom-up approach only applies to proposals for setting up local hawker bazaars and night markets.

- 26. Some members consider the principle of avoiding positioning hawking trade as a form of social welfare for the disadvantaged and for poverty alleviation is but a little too pedantic. A member has highlighted that hawker policy is closely related to grassroots economy and livelihood but this is not recognized by the Administration. Some members have cautioned that giving up the welfare consideration in formulating hawker policy may imply the adoption of cost-recovery principle in licensing and leasing related premises, which will ultimately lead to the failure of the hawking trade in addressing the dual objectives of enabling the grassroots to make a living through hawking and consumers to get cheaper merchandises.
- 27. There is also a view that hawking should be seen as a form of economic activity that could help shop operators to alleviate the problem of soaring rentals of shops as outlined in paragraphs 6 to 8 above and hawking deserves further development, for example, by allocating more land for setting up hawking areas.

Food safety and environmental hygiene

28. Members have noted that FHB has in many occasions stressed the overarching principle of food safety and environmental hygiene which could not be compromised when developing hawking activities. While understanding the need to uphold these two aspects in street management, members have however pointed out that FHB and FEHD have an undisputed responsibility to maintain food safety and environmental hygiene at a reasonable standard, and educate the hawkers not to undermine these two aspects while developing the hawking trade. They opine that if FHB and FEHD could undertake their duties to eliminate these concerns satisfactorily, local objection against hawking activities should disappear.

Role of the Government in the development of the hawking trade

- 29. According to the Administration, regulatory and supportive measures for hawking should be put in place with a view to upholding the commitment to ensuring food safety and maintaining environmental hygiene, especially for those residents in the vicinity of areas designated for hawking. There was no question of there being a policy bent on eradicating hawking for the sake of eradicating it.
- 30. Notwithstanding the above, members have noted FEHD's bureaucracy in managing hawkers who are required to obtain its prior permission if they are not operating the next day, and FEHD has been issuing summons to hawkers quite frequently that seems to aim at eradicating them. Some deputations have cautioned against the heavy-

handed approach of FEHD and requested it to relax the control on hawking activities and give more support to the trade's development. Members urge FEHD to change its management philosophy to tie in with the proposed principles. They note deputation's call for the Administration to adopt a modern and scientific approach on managing hawkers, and improve enforcement training for hawker control teams.

- 31. Noting that FHB is prepared to play a facilitator's role among bureaux to promote the trade's development, some members consider this already a breakthrough from the existing "management and control" regime. However, there is a concern that the principle of advocating bottom-up hawking propositions focusing on food safety and environmental hygiene is in effect merely old wine in new bottles, and it seems to members that the Administration has no intention to take them forward. Moreover, the principle suggesting that "the hawker concerned should identify a mode of operation and a market niche to sustain the hawking business in question" seems to play down the Administration's role and function in the sustainable development of the hawking trade.
- According to the Administration, hawker policy should strike a 32. sensible balance between economic considerations on the one hand and the community's need for social and cultural developments on the other. While the hawker policy under formulation should not focus solely on business objective, hawkers would still be required to identify a market niche that is sustainable in terms of business viability. By the same token, social and cultural developments should not be an excuse to justify hawkers' insulation from market forces. As such, local hawker policy should be formulated from a "regulated development" perspective balancing among regulation, eradication and development. Nevertheless, some members consider that hawker development should be placed under the remit of CEDB and a designated cross-bureaux/departments working group should be established for managing the hawker portfolio and implementing hawker policy. The Subcommittee has subsequently noted that FHB undertakes to facilitate liaison with the relevant bureaux and departments for district-led proposals with community support.

Place-making and space re-using

33. The two professors share interesting observations in respect of hawking. Professor NG introduces the concept of place-making whereby hawking provides a good opportunity for people to gather and exchange valuable resources through which the area is place-made with its own distinct features. Place-making is a learning and capacity-building process in social development, involving a lot of trials. She highlights that place-making is conducive to hawking, and any idling space, like carparks or new streets, used for hawking should be subject to place-

making such as by enhancing its accessibility and visitor flow. Some members acknowledge that hawking is a process of place-making based on a "people-oriented" approach which should give regard to the needs and expectation of people in the community.

34. Professor LUI, on the other hand, considers hawking a kind of space re-using. Three types of space may be re-used in each district, namely, (a) vacant space for developing bazaars or other hawking purposes; (b) space found in existing bazaars which could be optimized for further usage; and (c) existing public markets of low occupancy rate which could be converted into off-street cooked food centre or other It is necessary to appreciate the nature and hawking purposes. characteristics of the space (e.g. the extent of visitor flow) before determining the corresponding nature of business (e.g. featured snacks or traditional handicraft) and its mode of operation (e.g. operating daily or just on weekends) best suited for such a space. Nevertheless, space reusing should be practised with flexibility, for instance, the land concerned should be disposed of through usual means, for instance, to allow market power to come into play. Echoing his view, Professor NG adds that the fourth type of space for re-using can be made by closing some streets on weekends only for hawking activities.

Community planning

- 35. Professor NG has referred to the public grievances about the proliferation of space for commercial use, and called for a return of space for the use of the public for sustainable development. It is important to develop hawking activities in recognition of their diversified linkages to tourism, arts, history, social assets, cultural inheritance, social capacity-building, and innovation processes.
- 36. Community planning refers to the process of encouraging residents' participation, bringing parties of different interests together to reach consensus in respect of project planning and implementation through trust-building among stakeholders. Professor NG highlights the importance of community planning in enhancing the integration of latest community developments with the existing features of the areas concerned. This way of space utilization could, instead of depending on market power, meet the needs of the community. As such, she has urged the Administration to recognize the role of community planners in placemaking and invite them to lead stakeholders' discussions on the use of public space.

37. It has been the view of some members that public space should be reserved in town plans for hawking activities to address the needs of the community in starting-up small businesses and earning a living through hawking. On the other hand, temporary hawking activities along designated streets should be allowed so that hawker stalls need not invariably be permanent structures that cause obstruction and could affect urban outlook.

Proposals by the Administration

38. On the basis of the principles set out in paragraph 23 above, the Administration has reviewed the existing policy on hawker control and management, and set out five proposals for the Subcommittee's comments. Members in general support the five proposals and consider that the Administration has started to play a facilitator's role on the trade's development. Some other members express worry that these proposals are just old wine in new bottles, which in the end are just measures seeking to control and manage or even to eradicate hawkers. They also call on the Administration to step up publicity about these proposals on developing the hawking trade.

Proposal 1: Review the case for issue of new fixed-pitch hawker licences

- 39. In response to some members' call, the Administration is monitoring closely the implementation of the relocation plans under the 5-Year Scheme, and will review in due course whether new licences for on-street hawkers within fixed pitch hawker areas should be issued and if so how⁵. In the interim, the Administration will also follow up the issue of licences, e.g. Fixed Pitch (Tradesman) Hawker licence, to unlicensed street tradesmen with characteristics reminiscent of local culture and heritage. The Administration will consult the views of relevant government departments and DCs/local residents before issuing the licences.
- 40. Members in general support the proposal of issuing new fixed-pitch hawker licences to maintain a critical mass of hawkers and visitors of the hawker areas. Given that hawker assistants who are actually operating the fixed-pitch will lose their jobs instantly once their employers surrender their licences, some members have suggested that a reasonable number of such licences be open to registered hawker assistants (5 575 in total as at mid-April 2015) for priority review and

⁵ In the review, the Government will take account of the circumstances of individual hawker areas, including their fire safety and environmental hygiene situations, the business environment, comments of relevant departments, as well as the views of the relevant District Council ("DC") and local residents.

approval of licence applications in accordance with their years of experience. As regards some members' doubts on obtaining the support of DCs and local residents, the Secretary for Food and Health ("SFH") is optimistic because it only involves licences for existing pitches.

- 41. Members have noted that a deputation welcomes the proposal of issuing licences to unlicensed tradesmen with characteristics reminiscent of local culture and heritage like cobblers, watch repairers, knife sharpeners and locksmiths etc., but urges the Administration to include other industries such as bar tacking, slitting button holes and sewing.
- 42. A member has suggested the Administration to draw on Singapore's experience of Stall Ownership Scheme and consider allowing stallholders of fixed pitch stalls to buy their stalls on a 20-year lease at a discount. Those who decline to buy their stalls could surrender them for cash grants or continue to rent their stalls at a revised rate. This could serve as a strategy for poverty alleviation, provision of ex-gratia payments for licensees and/or encouraging the lower to middle-class residents to start businesses. There are other views that the Administration should review the licensing conditions and exercise discretion in enforcing the licence requirements, such as relaxing the requirement for elderly licence holders to man the hawker stalls, and allow newspaper hawkers to sell more varieties of goods such as soft drinks.

Proposal 2: Enhance the operating environment of existing hawker areas

- 43. As advised by the Administration, some large hawker areas, e.g. Fa Yuen Street in Mong Kok and Apliu Street in Sham Shui Po are undergoing major revamp of hawker stalls to reach a higher fire safety standard while at the same time enhancing hawking environment.
- 44. Members have pointed out that the Administration's work on enhancing the operating environment of hawkers' area is not good enough, and it tends to disturb the hawking trade instead of providing facilitation. For example, the stalls in Apliu Street are closely packed and the issue of fire safety is ignored, hawkers in Fa Yuen Street have been required to close the awning during fire safety inspection even when it is raining. The Administration has explained that after discussion with the relevant hawkers on the 5-Year Scheme, the stalls in Apliu Street are re-arranged in pairs so that more space could be vacated for the passageway considering the fire safety concern. Moreover, FEHD's officers would in general allow hawkers to shelter the stalls from the rain and sun during inspection.

- 45. In this connection, members have also noted some deputations' view that the measures implemented for fixed-pitch, such as installation of sprinkler system and fixed fire resisting structures and dismantling of stalls after business closing at night, are not conducive to the trade's development. They request the Administration to review and enlarge the size of the fixed-pitch and be more lenient in enforcement. There are also views that more characterized streets be set up to promote tourism.
- 46. Professor NG has suggested the Administration to review the outdated hawker control and management strategies alongside with the new hawker policy formulated from the "development" perspective, and adopt community surveillance on public space usage. There is concern that the Administration should review and update the legislative framework regulating hawking activities. Some members also opine that the Administration should maintain regular dialogues with hawker associations on related matters and give them more advices on their operation to reduce conflicts with the community/ residents.

Proposal 3: Consider the issue of new "Dai Pai Tong" licences

- 47. As at end-January 2015, there were 24 "Dai Pai Tong" licences. Subject to the support of the relevant DCs, the Administration will consider issuing new licences on a pilot basis with additional licensing conditions in respect of the discharge of waste water, demarcation of seating area, and use of construction materials and fuel. Members have noted that there is an objection to this proposal, believing that residents of the affected districts will not support the pilot projects.
- 48. Nevertheless, to tie in with the proposal in revitalizing "Dai Pai Tong", some deputations have requested the Administration to consider issuing licences for small-scale food production at home or on wooden food carts. A member has suggested converting some non-food fixed-pitch stalls to cooked food stalls. According to the Administration, the Food Business Regulation (Cap. 132X) prohibits preparation of food-for-sale in domestic premises, in order to ensure that food sold is prepared in premises which comply with hygiene standards prescribed under the law.

Proposal 4: Convert public market into off-street cooked food centre

49. The Administration may consider converting, on a pilot basis, an existing public market with a low occupancy rate into an off-street cooked food centre, which would provide operating space for individual cooked food vendors to provide traditional Dai Pai Tong-style meals, traditional snacks and other forms of light refreshment. One option is to appoint a social enterprise to take charge of the business planning and daily management of the cooked food centre.

- 50. Some members object to the proposal as on-street hawking activities, which represent a naturally developed and indispensable street culture, should be preserved. They consider that both on-street hawking and off-street public market should be developed vibrantly in parallel.
- 51. Those members who support the idea are worried that there is a general lack of visitor flow to the converted centres. In Chapter 3 of Report No. 64 of, the Director of Audit, he pointed out that the vacancy rates of cooked food hawker bazaars ("CFHBs") were high. Noting this, some members have also urged that old and dilapidated CFHBs should be renovated to increase their appeals to customers with a view to sustaining the operation of the markets by increased patronage. They express reservation in appointing social enterprises to take charge of the business planning and daily management of the cooked food centres as they generally lack the drive and experience in business operation. Nevertheless, these members consider that the Administration should take forward this non-controversial proposal expeditiously.
- 52. Alternatively, Professor NG has suggested that community kitchens could be set up in converted cooked food centres to safeguard public health and food safety.

Proposal 5: Set up district-led open-air hawker bazaars and night markets

- 53. According to FHB, it will keep an open mind towards setting up open-air hawker bazaars and night markets which are gestated under a district-led and bottom-up approach so that they can fully address the divergent needs and concerns of the local community in addition to commanding broad local support. Some members have expressed concern about the mechanism to gestate such kind of proposals, and requested the Administration to provide more user-friendly and focused assistance to non-government organizations ("NGOs") or other groups willing to respond to the new district-based and bottom-up approach adopted for local bazaars. In such a way, it is hoped to have successful pilot projects soon that could set precedents for the long-term implementation of such a new concept about local bazaars.
- 54. Professor LUI has suggested that discussion should initially focus on matching the type of hawking activities (e.g. those of cooked food stalls, small food cart, street tradesmen with characteristics reminiscent of local culture and heritage etc.), with the features of and space available in

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Members may wish to refer to and follow up the report of the Public Accounts Committee on the Report No. 64 in respect of public cooked food markets managed by FEHD.

the districts concerned. He remarked that bazaars lacking visitor flow could be place-made with injected resources to attract more visitors.

- 55. The Administration expects that relevant proposals might be either gestated by (a) a committee of an interested DC which takes the initiatives to identify suitable site(s) for relevant purposes, or by (b) local interested communities and any of these proposals should have been discussed by the DC concerned. FHB is prepared to facilitate the liaison with relevant government departments on any bazaar proposals supported by the DC concerned. SFH has also briefed the Chairmen and Vice-Chairmen of all 18 DCs about the Administration's stance so that interested parties in respective district might take this opportunity to identify suitable sites on vacant land away from residential area for setting up bazaars/night markets. FHB and the DC concerned might study the feasibility of the proposal together. If any organizations could identify suitable private sites, secure community support and take up the management work, vendors operating inside private sites may not need hawker licences. Other licences, depending on the types of commodities sold in addition to meeting the prevailing fire, safety, hygiene and other requirements, may be needed.
- 56. Professor NG has shared with the Government about her view of using a bottom-up approach at a Subcommittee meeting. Some members called on the Administration to take part in community workshops to understand more about the overall process of the gestation of bottom-up bazaar proposals. It should also adopt a kind of new thinking of place-making and engage community planners to take forward these proposals on a people-oriented approach and devise future town plans to reflect the community needs. According to the Administration, retail development should be market-led and that intervention from the Government should be kept to the minimum based on the Hong Kong Planning Standards and Guidelines. Nevertheless, FHB/FEHD will convey the above view to the Government department which is responsible for town planning.
- 57. Members have called on any interested members of the public to play a more proactive role and put forward the proposals for the Administration's consideration. A member has alerted the Administration to draw lessons from the case of Tin Sau Bazaar and get prepared for solving the teething problems during the implementation of bazaar proposals, including matters relating to the supply of electricity and discharge of waste water etc. In this connection, a member has requested the Administration to provide financial assistance to support the establishment of local bazaar.

58. Members belonging to the Civic Party, who have all along considered that the hawker policy is a matter of town planning, have suggested that the Administration should consider setting up bazaars and night markets as tourist attractions during urban redevelopment or new town planning. Another member has shared his observation that the Liuhe Tourist Night Market in Kaohsiung, which is always disorderly packed during operation at night, can be cleaned up properly in the mornings for normal traffic usage under a hawker self-regulation regime.

Food truck proposal

- 59. Members have noted that with a view to promoting tourism, the Financial Secretary has undertaken in his speech for the 2015-2016 Budget to consider introducing food trucks to the mix of Hong Kong's existing food scene. CEDB would take the lead in devising the policy and practice, with support from FHB and FEHD, where appropriate, in licensing matters. Some members have expressed concern about the financial viability of operating food trucks in Hong Kong. They have called on the Administration to formulate measures to avoid the food truck proposal being monopolized by large consortia and to consider issuing licence for small food carts to sell cooked food specialized in Hong Kong.
- 60. Those members supporting the proposal have urged the Administration to take note of the difference between Hong Kong and other countries (such as the United States) in operating food truck business. For example, Hong Kong is lacking space to house large trucks and handle sewerage. Having noted the deputations' suggestions to introduce in Hong Kong some small food trucks which are popular in Taiwan and Japan and more affordable by small businesses at about \$100,000, members have asked the Administration about the scope and estimated cost of a food truck it proposes.
- 61. Members note that CEDB is in the course of examining how best to take forward the food truck proposal, including overseas experience and deputations' views, and it will keep Members informed of relevant developments. Nevertheless, FHB has remarked that unless a new form of tailor-made licence for food truck is introduced, a food truck licensed under the Food Factory Licence could only operate at designated points; otherwise, there would be havoc to the regulatory regime for food factories in general whose total number of licences stood at 6 868 as at end August 2015.

Support of District Councils

- 62. According to the Administration, a hawking proposal gestated within the local community would stand a much better chance of enjoying broad local support. However, some members consider that requiring DC's support as a condition for issuing new Dai Pai Tong licences or taking forward a bazaar proposal is just making use of DC as a hurdle to prevent the implementation of any hawking proposal. Other members opine that it is difficult for the Administration to take forward any proposal without the support of the community vested in respective DC.
- 63. Members have also expressed concern about the conflicts between hawkers and the residents in respect of the nuisance caused by hawking activities. Noting that the self-emerged hawking activities in Kweilin Street have been eradicated in the 2015 Chinese New Year in response to the complaints made by the residents living there, some members have expressed doubts on the Administration's determination on supporting the hawking trade and urged it to strike a balance to enhance the trade's development while alleviating its nuisance caused on the community.
- In contrast, some other members opine that the Administration has actually acted in response to the complaints filed by the local residents who have been suffering from the nuisance brought about by the said hawking activities operating overnight. Such activities have become intolerable since the scope has been expanded from original six stalls to 36 stalls with lots of litter left uncollected. The affected residents have tried to liaise with the hawkers concerned but in vain and ultimately sought FEHD's assistance. Members stress that the self-emerged activities regulatory framework outside the Administration should be controlled by appropriate means so that hawkers could exist harmoniously with the residents. In liaison with hawkers, the Administration may draw experience from the 5-Year Scheme whereby issues among different stakeholders have been resolved after close communication. District-based committee/communication platforms should be set up for stakeholders to exchange views about hawking activities, resolve any conflicts between residents/district councilors and hawkers/community groups. Such committee can also closely monitor the management of bazaars, for example, to safeguard subletting, if any. A deputation has suggested DC to take the lead to draw up bottom-up proposals on hawking propositions with the assistance of community planners who could help gauge community views systematically through different studies and workshops.

65. FHB has reiterated that it is prepared to facilitate the liaison with relevant government departments on any bazaar proposals supported by the DC concerned and interested parties may send the relevant proposals to FHB for SFH's information.

Recommendations

66. As summarized below, the Subcommittee recommends that the Administration should –

Policy and measures

- (a) revamp hawker policy by a sea change in its approach, namely, from an emphasis on policing compliance by hawkers of rules in a regulatory regime to perceiving them as an integral part of Hong Kong's development towards modernity, sustainability and better living. Such a "development" perspective entails, amongst other values, preservation of local environment and social assets, along with the development of market economy (paragraphs 19 and 24);
- (b) borrow from overseas experience of implementing different hawker policies at different places, so as to develop Hong Kong's own with a more flexible approach (paragraph 10);
- (c) reckon that there is no one way of dealing with hawkers that could apply to all districts, and there must be different positioning of the policy tailor-made to suit different districts (paragraphs 25 and 26);
- (d) reckon that there is a place-making dimension to hawking and "people-oriented" approach should be adopted that includes enhancing accessibility and visitor flow to the hawking area (paragraph 33);
- (e) reckon that hawking should be seen as a form of economic activity that could help shop operators to alleviate the problem of soaring rentals of shops (paragraph 27);
- (f) preserve the hawking trade and identify venues suitable for hawking activities. Hawking is a kind of space re-using, and consideration should be given to the nature and characteristics of any space before determining the nature of business and mode of operation best suited for such a space (paragraphs 20 and 34);

- (g) adopt a modern and scientific approach on managing hawkers, improve enforcement trainings for hawker control teams, and consider relaxing the control on hawking activities (paragraph 30);
- (h) allow temporary hawking activities along designated streets so that hawker stalls need not invariably be permanent structures that cause obstruction and could affect urban outlook (paragraph 37);
- (i) promote both on-street hawkers and off-street public markets in parallel, instead of being preoccupied with the object of relocating on-street hawkers into public markets (paragraph 50);
- (j) establish a designated cross-bureaux/departments working group for managing the hawker portfolio and implementing hawker policy (paragraph 32);

Setting up new bazaars and revitalizing Dai Pai Tong/cooked food centres

- (k) provide more user friendly and focused assistance to NGOs or other groups willing to respond to the new district-based and bottom-up approach adopted for local bazaars. In such a way, it is hoped to have successful pilot projects soon that could set precedents for the long-term implementation of such a new concept about local bazaars (paragraph 53);
- (l) adopt a new thinking of place-making and take part in community workshops about the gestation of bazaar proposals (paragraph 56);
- (m) draw experience from the 5-Year Scheme in resolving issues among different stakeholders (paragraph 64);
- (n) make reference to experiences of operating cooked food stalls and nights markets from places such as Taiwan and Singapore (paragraph 20);
- (o) refurbish existing old and dilapidated cooked food bazaars with visitor flow to improve the operating environment and hence attract more patronage and place-make those bazaars/cooked food centres lacking visitor flow with injected resources on a case-by-case basis to attract more visitors (paragraphs 20 and 54);

- (p) draw lessons from the case of Tin Sau Bazaar and get prepared for solving the teething problems during the implementation of bazaar proposals (paragraph 57);
- (q) set up community kitchens in converted cooked food centre (paragraph 52);
- (r) convert some non-food fixed-pitch stalls to cooked food stalls (paragraph 48);

Licensing and relevant matters

- (s) give priority review and approval of applications to registered hawker assistants in accordance with their years of experience when issuing new fixed-pitch hawker licences to maintain a critical mass of hawkers and visitors of the hawker areas (paragraph 40);
- (t) include other trades with characteristics reminiscent of local culture and heritage, such bar tacking, slitting button holes and sewing, when issuing new fixed pitch licences (paragraph 41);
- (u) relax the licensing requirements for elderly licensees to man the hawker stalls and for newspaper hawkers to sell more varieties of goods (paragraph 42);
- (v) issue licence for small food carts to sell cooked food (paragraph 59);

Enforcement for food safety and environmental hygiene

- (w) recognize that FHB and FEHD have an undisputed responsibility to maintain food safety and environmental hygiene at a reasonable standard (paragraph 28);
- (x) review the outdated hawker control and management strategies alongside with the new hawker policy formulated from the "development" perspective, and adopt community surveillance on public space usage (paragraph 46);
- (y) maintain regular dialogues with the hawker associations on related matters and give them more advices on their operation to reduce conflicts with the community residents (paragraph 46);
- (z) set up district-based committee/communication platforms for stakeholders to exchange views about hawking activities and resolve any conflicts between residents/district councilors

- and hawkers/community groups. Such committee can also closely monitor the management of bazaars, for example, to safeguard subletting, if any (paragraph 64);
- (aa) consider introducing a self-regulatory regime for certain bazaars with reference to the case of Liuhe Tourist Night Market in Kaohsiung (paragraph 58);
- (bb) control the hawking activities outside the regulatory framework by appropriate means so that hawkers could exist harmoniously with the residents (paragraph 64);

Other suggested initiatives

- (cc) formulate measures to avoid the food truck proposal being monopolized by large consortia (paragraph 59);
- (dd) introduce in Hong Kong some small food trucks which are popular in Taiwan and Japan and more affordable by small businesses (paragraph 60);
- (ee) step up publicity about the Administration's proposals on developing the hawking trade (paragraph 38); and
- (ff) engage community planners in devising future town plans to reflect the community needs (paragraph 56).

Way forward

67. The Subcommittee agreed that it should conclude its work and submit a report to the Panel. The Panel would follow up any issues in relation to the hawker policy in future. Members express appreciation to the support of Mrs Carrie LAM, CS and Dr KO Wing-man, SFH for the work of the Subcommittee.

Advice sought

68. Members of the Panel are invited to note the work of the Subcommittee.

Council Business Division 4
<u>Legislative Council Secretariat</u>
5 October 2015

Reviews conducted and measures implemented by Food and Environmental Hygiene Department on hawker policy

Revised enforcement strategies in 2001

In late 2001, in the wake of the economic difficulties caused by the Asian financial crisis, the Administration decided to take a more tolerant approach in its enforcement actions against unlicensed hawking activities so long as food safety and environmental hygiene would not be compromised. Nevertheless, the Administration will not concede on the following –

- (a) sale of prohibited or restricted goods, or cooked food will be strictly forbidden and subject to stringent enforcement actions; and
- (b) hawker-free situations will be maintained in major thoroughfares, areas of high pedestrian flow (e.g. pedestrian precincts, Mass Transit Railway exits, public transport terminals and concourses, heavily used footbridges, tourist spots) and places with repeated and substantiated complaints of illegal hawking activities.
- 2. Hawking activities falling outside the above scope, regardless of whether they are licensed or unlicensed, would be accorded a lower priority in enforcement. The hawkers involved would generally be given oral warnings and asked to disperse; enforcement actions, including seizure, will be taken if the warnings are unheeded.
- 3. In 2014, 28 206 convictions resulted from enforcement actions against unlicensed hawkers and their hawking-related offences. The number of unlicensed hawkers in the territory was estimated to be around 1 440.

Voluntary surrender scheme for hawker licences in 2002

4. In 1993, the former Urban Council adopted a compulsory deletion policy for itinerant hawker licences ("IHLs") while the former Regional Council relied on natural attrition to phase out IHLs. In April 2001, members of the Panel on Food Safety and Environmental Hygiene ("the Panel") considered that the hawker policy for IHLs in the urban areas and in the New Territories should be aligned.

- 5. In 2002, the Administration extended the voluntary surrender scheme for IHLs introduced in March 1993 for cooked food stall hawkers (commonly known as "Dai Pai Tong") and all itinerant hawkers. Under the scheme, licensees may surrender their licences in exchange for a one-off ex-gratia payment ("EGP"), rental of a vacant stall in public markets/cooked food centres under concessionary terms, or becoming a fixed-pitch (non-cooked food) hawker. The scheme applicable to cooked-food stall hawker licensees ended on 30 November 2007 with a total of 37 licences surrendered.
- 6. However, when the Panel discussed the expiry of the voluntary surrender scheme for IHLs at its meeting in November 2010, members raised concern about the livelihood of elderly holders of IHLs. In response to members' concern, the Administration decided to extend the options of EGP and priority selection of a vacant fixed-pitch for itinerant hawker licensees by two years until 31 December 2012, while the option of renting a vacant public market stall expired on 31 December 2010 as scheduled. A total of 514 IHLs were surrendered. Among them, 412 opted for ex-gratia payment, 74 elected vacant fixed hawker pitches and 28 selected vacant market stalls.

Review of hawker licensing policy in 2008

- 7. The Administration reviewed the hawker licensing policy in 2008-2009. The scope of the review covered examination of the feasibility of re-issuing new hawker licences, relaxation of the requirements for succession and transfer of hawker licences, and ways to strengthen the role of District Councils ("DCs") in hawker licensing and management. When the Administration consulted the Panel on the review at its meetings in 2009, the Panel members and deputations expressed strong views that the hawking trade should be preserved and revitalized. Members were of the view that fixed-pitch licences should be allowed to be transferred to or succeeded by registered assistants, and the succession and transfer of itinerant hawker licences should be in line with that of fixed-pitch hawker licences.
- 8. In response to members' views, the Administration provided the Panel an information paper in February 2010 regarding the Administration's decision to give priority to existing registered assistants with experience in the hawking trade to apply for 70% of the vacant fixed hawker pitches (LC Paper No. CB(2)905/09-10(01)). Subsequent to the review of hawker licensing policy, the Administration implemented a number of measures including –

- (a) merging 659 back-row vacant pitches with front-row pitches in Yau Tsim Mong, Sham Shui Po and Kowloon City to provide a larger trading areas for licensees;
- (b) issuing 61 new itinerant (frozen confectionery) hawker (commonly known as "small ice-cream vendors") licences⁷. While newly issued hawker licences should not be allowed for further succession and transfer, the requirements for succession to and transfer of "Dai Pai Tong" licence were relaxed if the respective DC so supports. Instead of spouse, the licence can be succeeded by or transferred to the licensee's immediate family members. The Administration may also consider issuing new licences to other interested operators. As a result, nine "Dai Pai Tong" hawker licences in the Central & Western District have been successfully transferred; and
- (c) re-issuing fixed-pitch (other classes) hawker licences to take up the then vacant on-street fixed pitches in five districts, namely Sham Shui Po, Kowloon City, Yau Tsim Mong, Central & Western and Southern. A total of 218 new licences were issued, and 139 of these newly issued licences were still in operation as at the end of 2014.

<u>Issue of fixed-pitch hawker licence to former tobacco hawkers or retailers</u> in 2010

9. Since August 1989, tobacco hawker licences ("THLs") or tobacco retailer's licences ("TRLs") which permitted holders to sell cigarettes and tobacco in urban areas were no longer issued. According to records, a total of 28 THLs or TRLs were valid at that time. In March 1999, site inspection by the then Urban Services Department revealed that there were 13 tobacco trading sites. In 2008, site investigations by Food and Environmental Hygiene Department ("FEHD") revealed that out of the 13 sites, only eight had continued operation and they were all located in Central and Western District. In 2010, the eight tobacco hawkers were subsequently issued with fixed-pitch hawker licence for in-situ operation.

Public consultation on management of fixed-pitch hawkers in 2011 and 2012

10. Following two major fires which broke out at the hawker stalls at Fa Yuen Street, Mongkok in December 2010 and November 2011, the Administration conducted two public consultations on the mechanism for

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As at the end of 2014, 17 holders of these newly issued itinerant (frozen confectionery) hawker licence had decided to surrender or not to renew their licences.

cancellation of hawker licences and the improvement of the management of fixed-pitch hawker areas in 2011 and 2012 respectively. However, the original proposal of licence cancellation mechanism met with strong opposition from the Panel, most of DCs and hawker associations. The Administration had subsequently modified the original proposal of licence cancellation mechanism and consulted the Panel on a new mechanism for suspension of hawker licences against repeated non-compliances in April 2012.

- 11. The mechanism for suspension of hawker licences commenced operation in November 2012. Under this mechanism, if a licensed hawker is convicted for six times within three months for breaching any fire risk-related provisions under the Hawker Regulation (Cap. 132AI), the Director of Food and Environmental Hygiene ("DFEH") may consider suspending the hawker's licence. If the licensed hawker is subsequently convicted again for six times within three months for breaching any related hawker regulations, the number of licence suspension days will increase. DFEH may also consider immediate cancellation of the hawker licence if the licensee has committed any of the three serious offences, namely stall subletting, illegal connection of electricity and making false declaration to obtain a hawker licence. If the licensee is dissatisfied with the decision of DFEH, he/she may appeal to the Licensing Appeal Board under Section 125(9) of the Public Health and Municipal Services Ordinance (Cap. 132).
- 12. In addition to the above, the Administration implemented a series of measures to reduce fire risks which include requiring hawkers to follow strictly the requirements on stall area, stall canopy and stall construction materials; and forbidding overnight on-street storage of commodities outside the stall after business hours.
- 13. To control effectively the potential fire risks in hawker areas, the Administration has established a Steering Committee on Hawker Management to formulate specific measures to improve management and oversee their implementation. Furthermore, recognising the importance of fostering a collaborative relationship with the stakeholders, FEHD has set up hawker management consultative committees covering all hawker areas to provide an effective communication platform on hawker management issues, including promotion of fire safety. To promote compliance with fire safety requirements and good practices, FEHD has implemented a sanction mechanism, under which recalcitrant offenders would be subject to suspension or cancellation of their hawker licences.

Assistance scheme for hawkers in fixed-pitch hawker areas in 2013

- 14. To improve the fire resistance capability and design of hawker stalls, the Administration consulted the Panel in January 2013 on a five-year assistance scheme for 4 300 licensed hawkers operating in 43 fixed-pitch hawker areas in the territory ("the Assistance Scheme"). Under the Assistance Scheme, financial assistance would be given to the hawkers for stall reconstruction and relocation, and a one-off EGP would be offered to hawkers for surrendering their licences. The funding proposal of \$230 million for launching the Assistance Scheme was subsequently approved by the Finance Committee on 15 March 2013.
- 15. With the co-operation of hawkers, hawker associations and relevant DCs, FEHD has now worked out feasible relocation plans for 38 of the 43 hawker areas. The remaining five hawker areas do not require stall relocation after detailed assessment. So far, 356 hawkers have surrendered their licences, and 1 060 have applied for grants for relocation or in-situ reconstruction of their stalls. More specifically, among the 498 hawkers whose fixed-pitch hawker stalls may obstruct building staircase discharge points or emergency vehicle operations and need to be relocated, 53 have surrendered their licences and 224 have effected relocation as at the end of 2014. In other words, of the 498 fixed-pitch hawker stalls that are assessed to bear higher risk in fire safety terms, 277 (or 56%) have been vacated by December 2014.
- 16. The Administration recognizes that relocation work in some hawker areas with higher fire risks is slower than expected, although numerous relocation proposals have been produced and rounds of local consultations organised. FEHD is continuing its efforts to engage the affected hawkers. If there is no material progress within a reasonable period of time, DFEH will consider exercising her statutory power under the Hawker Regulation to serve notice on the licensees concerned and order them to vacate their pitches within a specified period of time to improve fire safety in the hawker areas concerned.
- 17. The decision of not issuing new hawker licences, coupled with the gradual changes in the shopping habits of the population and the growing competition from other retail outlets (especially chain stores) have led to a gradual reduction in the number of licensed hawkers. As at end-January 2015, the total number of licensed hawkers was about 6 300, compared with about 20 000 in the late 1980s.

Types and number of hawker licences

(as at 31.12.2014)

Types	Number of fixed- pitch hawker licence	Number of itinerant hawker licence
"Cabinet-type" stall in 43 hawker areas ¹	about 2 340	-
"Hawker Permitted Place" ("HPP") stall ² in 43 hawker areas	about 1 640	-
"Cabinet-type" and "HPP" stalls in areas other than the 43 hawker areas	120	-
Bootblack	6	-
Cooked food or light refreshment (including "Dai Pai Tongs", with 24 stalls in total as at the end of 2014)	198	-
Newspaper ³	457	2
Tradesman	176	-
Barber	31	-
Wall stall	321	-
Hawker bazaar ⁴	616	-
Itinerant (frozen confectionery)	1	69
Itinerant (mobile van)	-	15
Others ⁵	-	356
Total	about 5 905	442

<u>Notes</u>

- 1. These are located at 43 streets in six districts, i.e., Central & Western, Wan Chai, Eastern, Yau Tsim Mong, Sham Shui Po and Kowloon City. The majority of the fixed pitches are 900 mm x 1 200 mm in dimension.
- 2. There are additional conditions contained in HPP licences requiring the licensee to
 - (a) ensure that the structure erected on the pitch is readily movable;

- (b) hawk at the stall during the specified hours only; and
- (c) remove the stall from the pitch daily between the specified closing hour and the opening hour on the following day.
- 3. The licensees are allowed to sell 12 additional commodities, mostly convenience goods (at a total space of not exceeding 50% of the pitch area); install electronic display panel for commodities being sold; and provide free Wi-Fi service.
- 4. There are 18 hawker bazaars, including 11 bazaars with stalls selling cooked food.
- 5. There are 356 holders of Itinerant Hawker Licence (Other Classes). They are allowed to hawk in a mobile manner in specified areas in the territory. They are permitted to sell a maximum of four items endorsed on their licences, which include dry goods and some food-related commodities.

Panel on Food Safety and Environmental Hygiene

Subcommittee on Hawker Policy

Terms of reference

To study and review the hawker policy with the objectives of facilitating the long-term development of the hawking trade and improvement of the management and operating environment of the hawker areas and make timely recommendations.

Appendix IV

Panel on Food Safety and Environmental Hygiene

Subcommittee on Hawker Policy

Membership list

Chairman Hon Steven HO Chun-yin, BBS

Deputy Chairman Hon Alan LEONG Kah-kit, SC

Members Hon Tommy CHEUNG Yu-yan, GBS, JP (up to 27 October 2014)

Hon Vincent FANG Kang, SBS, JP Hon WONG Kwok-hing, BBS, MH

Hon Cyd HO Sau-lan, JP Hon CHEUNG Kwok-che Hon WONG Yuk-man Hon Claudia MO

Hon WU Chi-wai, MH (up to 4 October 2014)

Hon CHAN Chi-chuen Hon CHAN Han-pan, JP

Dr Hon Kenneth CHAN Ka-lok Hon Alice MAK Mei-kuen, BBS, JP

Dr Hon Helena WONG Pik-wan (up to 23 September 2014)

Hon Christopher CHUNG Shu-kun, BBS, MH, JP

(Total: 16 members)

Clerk Ms Debbie YAU

Legal Adviser Miss Carrie WONG

List of the deputations/individuals which/who have given views to the Subcommittee on Hawker Policy

Deputations

- 1. Civic Party
- 2. Community Development Alliance
- 3. Community Establishment Power
- 4. Concerning CSSA and Low Income Alliance
- 5. Democratic Alliance for the Betterment and Progress of Hong Kong
- 6. Designing Hong Kong
- 7. Federation of Hong Kong Kowloon New Territories Hawker Associations
- 8. Hong Kong Baptist University Students' Union
- 9. Hong Kong Federation of Social Work Students
- 10. Hong Kong Food and Environmental Hygiene Department Staff Rights Union
- 11. Labour Party
- 12. Liberal Party
- 13. Our Bus Terminal
- 14. The Lion Rock Institute
- 15. Tung Chung Community Development Alliance
- 16. Tung Chung Handmade
- 17. United Hawkers Development Platform
- 18. We are the future campaign
- 19. Young Civics
- 20. 大南街販商協會
- 21. 小販政策關注組
- 22. 天水圍陣線
- 23. 天水圍發展陣線
- 24. 天秀墟檔主大聯盟
- 25. 天秀墟檔主關注組
- 26. 天姿作圍
- 27. 屯門社區關注組
- 28. 北角販商協會
- 29. 西貢漁民艇仔小販會
- 30. 利源東西街販商協會
- 31. 東涌互助墟
- 32. 油麻地廟街販商商會
- 33. 花園街販商協會

- 34. 香港仔天光墟市集小販會
- 35. 香港報販協會
- 36. 荃灣商戶聯誼會
- 37. 推動本地自家製發展小組
- 38. 深水埗見光墟關注組
- 39. 深水埗基層墟市關注組
- 40. 深水埗基層關注組
- 41. 通菜街(女人街)販商協會
- 42. 渣甸坊販商協會
- 43. 港九小商販聯誼會
- 44. 新界商戶協進會
- 45. 新界跳蚤市場商戶協會
- 46. 葵芳區私人樓宇居民聯席
- 47. 葵芳區私人樓宇居民聯會
- 48. 葵芳區私人樓宇居民關注組
- 49. 福華街販商栛會
- 50. 增加食物中小販熟食比例委員會
- 51. 廣東道(旺角道至亞皆老街)販商協會
- 52. 撐·基層墟市聯盟
- 53. 樂富中心商會
- 54. 鴨寮街販商協會
- 55. 關注東涌設立墟市居民組
- 56. 關注草根生活聯盟
- 57. 灣仔大佛口販商協會
- 58. 灣仔交加街太原街固定攤位小販權益關注組

Individuals

- 59. Ms CHAN Choi-kwai
- 60. Mr CHU Wai-chung
- 61. Ms CHUNG Choi-wan
- 62. Mr HO Chi-chung
- 63. Mr HUI Chi-fung
- 64. Miss Kate KWOK
- 65. Mr LAU Siu-hang
- 66. Mr Jacky LIM
- 67. Ms LEE Yuk-mei
- 68. Dr LEUNG Chi-yuen
- 69. Mr NG Chung-tat
- 70. Mr TAM Keng-yeung
- 71. Mr WAN Siu-kei
- 72. Ms WONG Sau-chi

- 73. Ms WONG Sau-fa
- 74. 梁林娣女士

Written submissions only

- 1.
- 2.
- A group of deputations
 A member of the public
 「十幾對手」自家製生產計劃 3.
- 土地正義聯盟 4.
- 5. 西區墟市關注組

List of questions proposed for the brainstorming session of the Subcommittee on Hawker Policy

- * Hawkers are holders of (LC Paper No. CB(4)566/13-14(01)) -
- (a) fixed-pitch hawker licences for operating, for example,
 - (i) fixed-pitch stalls located in 43 hawker areas;
 - (ii) fixed-pitch stalls for cooked food or light refreshment) (commonly known as "Dai Pai Tong");
 - (iii) fixed pitches located inside hawker bazaars; or
 - (iv) newspaper stalls.
- (b) itinerant hawker licences for operating, for example,
 - (i) itinerant (frozen confectionery) hawking (commonly known as "small ice-cream vendors"); or
 - (ii) itinerant (mobile van) hawking.
- * Stallholders in public markets and eatery operators in factory buildings are not hawkers.

Development direction(s)

Background

On the development direction(s) of the new hawker policy, there were views that hawking should be developed to alleviate poverty, create employment opportunities, stand up against supermarket/the LINK's monopoly and promote economic development, etc.

- 1. Should it be also appropriate to set the development direction(s) of hawker policy as "enhancing social mobility" in addition to providing the economic functions (such as diversifying customer choices and enhancing competition), social functions (such as endowing a place with character and stories) and environmental functions of reducing carbon footprints by selling locally-made goods?
- 2. Singaporean government plans to build new hawker centres which are expected to create a stabilizing effect on food prices by exerting a downward pressure on hawker stall rentals over time. Will Hong Kong draw experience from Singapore's plan in order to stabilize the prices of food and daily necessities through building hawker centres/areas with Hong Kong characteristics?

Bazaars/hawker areas

Background

According to the previous deliberations of the Panel on Food Safety and Environmental Hygiene, its members generally considered that the establishment of open-air bazaars could boost the development of economic activities and create employment opportunities in the local communities.

- 3. With reference to the list of temporary vacant government sites set out in LC Paper Nos. CB(4)968/13-14(04) and (05), is it feasible to designate some of the sites as bazaars or hawker areas for any interested parties (including grassroots, business starters, self-employed and unlicensed hawkers) to carry out hawking activities, in particular sales of locally-made products, in respective districts?
- 4. Is it feasible to invite the district councils to work with local stakeholders in "place-making", i.e. submitting proposals on setting up hawker stalls/areas in their districts and identifying the best location(s) through experimentation?
- 5. Is it possible to organize theme-based bazaars for young hawkers who may make use of their commercial and entrepreneurial skills to run hawking business targeting at high-end consumers to earn relatively higher profit margins and develop own brand-names before moving to sell at shops or online?
- 6. Is it feasible to invite appropriate social enterprises to manage some of the bazaars or designated hawker areas so that talented managers in the enterprises may work in a more meaningful context by making use of their business skills to train up new hawkers, e.g. in the long run selling their products online?
- 7. Are there any strategies to boost the development of "Dai Pai Tong"?
- 8. Is it feasible to allow some lively street activities, e.g. busking or singing performance, to take place in bazaars or designated hawker areas to draw more visits and increase business turnover?
- 9. Is it practicable to establish a standing practice to include hawker areas/bazaars in town plans as part of the urban planning process?

Operating environment

Background

According to the Food and Health Bureau, it and the Food and Environmental Hygiene Department will have to uphold the mission of ensuring food safety and maintaining a clean and hygienic environment for the people of Hong Kong.

- 10. What are the pros and cons of introducing a grading system for "Dai Pai Tong" and a points demerit system for licensees as those instituted by Singapore?
- 11. Should licensees and their assistants working in "Dai Pai Tong" be required to receive mandatory training on food safety and environmental hygiene?
- 12. Is it possible to allow any interested parties to carry out hawking activities in certain sites after rush hours until late night?
- 13. Should Hong Kong consider introducing a self-regulatory model like that of Taiwan to empower hawker associations for the management of hawker areas and resolution of disputes?

Licensing

Background

The Administration reviewed the hawker licensing policy in 2008-2009. It subsequently decided to implement a package of measures, including reissuing certain types of hawker licences, including relaxing the succession and transfer requirements for hawker licence in respect of "Dai Pai Tong", issuing new itinerant (frozen confectionery) hawker licences and re-issuing fixed-pitch (other classes) hawker licences (paragraph 37 of LC Paper No. CB(4)566/13-14(01)).

- 14. Should Hong Kong revamp the current licensing system to, for instance, introduce different classes of hawker licence (such as licences for college graduates or craftsmen and licences for operation during specific hours, etc) with varying requirements and restrictions?
- 15. Should Hong Kong model on the practice of Australia which issues long-term (a maximum of five years) or short-term (up to 12 months) permits for carrying out on-street hawking activities (paragraphs 4.2 and 4.3 of LC Paper No. FS11/13-14)?

Other initiative(s)

- 16. Mobile hawking operated with vans or trucks is popular in overseas countries such as Australia and the United States. Should Hong Kong enhance this kind of activities in applicable locations to provide an alternative shopping option for residents and tourists?
- 17. Is it possible for the Administration to set up an inter-departmental task force to oversee the implementation of the renewed hawker policy?

* * End * *

Panel on Food Safety and Environmental Hygiene Subcommittee on Hawker Policy

Summary of views expressed by deputations/individuals at the meetings on 14 April 2015 and in the submissions received and the Administration's response (LC Paper No. CB(4)1327/14-15(01)

(Translation)

Views/concerns of deputations/individuals	Administration's response
priority to registered hawker assistants in applying the licences surrendered by their	We are monitoring closely the implementation of the five-year Assistance Scheme for Hawkers in Fixed-pitch Hawker Areas. We will review in due course whether new fixed-pitch hawker licences should be issued and if so how. In reviewing the relevant arrangements, we will take into account the suggestion of giving priority to registered hawker assistants in granting licences.
make use of idling public spaces, for instance, food markets and car parks with low occupancy as well as new	

Views/concerns of deputations/individuals	Administration's response
3. The Administration should make reference to overseas experiences when formulating hawker policy, namely, setting open-air hawker bazaars with flexi-hour operation, and night markets as tourist attractions and using wooden food trucks with lower start-up costs.	The Government keeps an open mind towards district-led proposals on local bazaars and their mode of operation, so long as food safety and environmental hygiene would not be compromised. Since the details of a hawking proposition (especially its location, hours and other conditions of operation) often affect different stakeholders in the local community in different ways, we see considerable benefits in adopting a bottom-up approach. A proposal gestated within the local community would stand a much better chance of enjoying broad local support, local participation and ownership, in addition to meeting local needs. If district-led proposals with community consensus are put up, we are happy to facilitate liaison with the relevant bureaux and departments.
4. The Food and Environmental Hygiene Department should change its hawker management and enforcement strategies alongside with the new hawker policy.	Involving as it does considerations that are in part interest-driven and in part value-laden in nature, the hawker policy has been evolving in the passage of time. As the perspectives held by different stakeholders are often incompatible with each other, forging a perfect hawker policy capable of pleasing all parties at all times is a tall order. The Government has all along been trying to strike a sensible balance that can command overall community support among competing and evolving considerations. We consider that the existing hawker management and enforcement strategies are generally able to strike a reasonable balance between the different interests.
5. The Administration should take into account hawking activities and engage community planners when it devised town plans for newly developed districts.	According to the Hong Kong Planning Standards and Guidelines, retail development should be market-led and that intervention from the Government should be kept to the minimum. We will convey this view to the Government department which is responsible for town planning. We believe that proposals to set up bazaars should be district-led. If suitable sites are identified by any organisations for use as bazaars and support from the local community as well as relevant District Councils (DCs) has been obtained and provided that food safety and environmental hygiene are not compromised, we stand ready to facilitate liaison with relevant government departments.

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Views/concerns of deputations/individuals	Administration's response
6. While local shopping malls being more homogenous, the Administration should issue licences for tradesmen with characteristic reminiscent of local culture and heritage e.g. cobblers, watch repairers and locksmiths etc.	We concur that room should be allowed for the further development of traditional or creative cultural activities and / or handicrafts. We will follow up the issue of licences to unlicensed street tradesmen engaged in trading activities or the provision of services reminiscent of our local culture and heritage. Examples include cobblers, watch repairers, locksmiths, knife sharpeners, Chinese facial cosmeticians, letter writers, etc. After obtaining DCs' support and clearance of other departments, we will consider licensing in-situ or at another suitable site as fixed pitches. The surveyed tradesmen may apply for Fixed Pitch (Tradesman) Hawker Licences, so that if issued with the licence, they may continue to conduct business at suitable sites legally.
7. There was a need to set up a platform for communications among the Government, district councillors and stakeholders in each district to gestate district-led and bottom-up proposals on hawking activities.	From the practical implementation point of view, the Government keeps an open mind towards proposals on developing the hawker trade in any locality, so long as food safety and environmental hygiene are not compromised, public passageways not obstructed and local community support is obtained. As regards how we should build consensus on a proposal, it could differ from one district to another, depending on individual circumstances. The Government does not have preconceived notions on what form the engagement process or for that matter the communication platform should take. On the contrary, it could be argued that doing it in a manner prescribed by the Government may not be consistent with the district-led and bottom-up concepts. In fact, we note that some local organisations have already been arranging workshops on their own volition for stakeholders to discuss this subject at the district level. If suitable sites are identified by the proponents and support from the relevant DCs has been obtained in respect of the sites and their operational arrangements, we are happy to provide advice on how to ensure that their operations comply with food safety and environmental hygiene requirements, and will endeavour our best to facilitate liaison with relevant government departments.

Views/concerns of deputations/individuals 8. The Administration should allow newspaper hawkers to sell more varieties of goods and offer an ex-gratia payment of \$120,000 for newspaper hawkers who voluntarily surrendered their licences.

Administration's response

A five-year assistance scheme was launched in June 2013 to provide one-off financial assistance to fixed-pitch hawkers in 43 hawker areas for stall reconstruction and relocation to improve fire safety, covering the materials and design of hawker stall structures and provision of fixed electrical installations, as well as subsidy for relocating stalls away from staircase discharge points of buildings or emergency vehicular access in hawker areas. An ex-gratia payment of \$120,000 was paid to hawkers who opt for voluntary surrender of their hawker licences to the Government. The scheme aimed to expedite the release of vacant pitches and hence facilitate the relocation of stalls which posed higher fire risks. With regard to other hawkers (including fixed-pitch newspaper hawkers) not operating in those 43 hawker areas, their stalls are not located in densely-populated areas or do not congregate on street. In either case, the fire risks posed to adjacent buildings are relatively low. They are therefore not covered by the assistance scheme.

In response to the request of some newspaper hawker associations, we relaxed in 2009 the restriction on the range of commodities that may be sold by newspaper hawkers at their stalls by increasing the types of additional commodities from eight to 12. At the same time, the restriction on area used for the sale of additional commodities was also relaxed by expanding the space limit from not more than 25% to not exceeding 50% of the stall area. In early 2014, we allowed these hawkers to provide WiFi services within the confines of their stalls and to display with electronic panels lawful advertisements related to the commodities permitted for sale under their licences.

9. The Administration should consider relaxing the licensing conditions for food factory, for instance, permitting small-scale food production at home, or at idled public space.

In order to ensure that the food sold in Hong Kong is safe and fit for consumption, a licence issued by the Food and Environmental Hygiene Department (FEHD) under the Food Business Regulation (Cap. 132X) is required for operating certain food business including food factories. Licences are only issued to food premises which comply with the relevant licensing conditions. We will impose licensing conditions as appropriate, so long as the legal requirements are complied with and food safety and environmental hygiene are safeguarded.

Views/concerns of deputations/individuals	Administration's response
	Besides, the Food Business Regulation prohibits preparation of food in domestic premises. This aims to ensure that food sold by the food business is prepared in premises which comply with hygiene standards prescribed under the law. It is our responsibility to safeguard food safety and maintain a clean and hygienic living environment for the people of Hong Kong. Any measures to regulate and support hawking activities should be consistent with our commitment to discharge such responsibility. We have no plan to make legislative amendments to relax the requirements in this respect.
10. Hawker associations or hawkers should be involved in the discussions of hawker policy and management, especially during the appeal process in respect of licensing, and the food and environmental hygiene committees of DCs, to address hawkers' interests and concerns.	We have been consulting hawker associations and hawkers on matters related to hawker policy and management. To establish collaborative partnership with the stakeholders, we have established Hawker Management Consultative Committees (HMCCs) covering all hawker areas. Members of HMCCs include representatives of licensed hawkers, members of the relevant DCs and District Fire Safety Committees. We have not refused any requests from non-HMCC member hawkers who operate at the relevant hawker area for attending the HMCC meetings. The HMCCs provide a platform for two-way communication so that FEHD's district staff may discuss with the stakeholders matters related to the day-to-day management of hawker areas as well as the relevant regulatory and safety issues. Besides, we will approach hawker associations for their views on a need basis. Recent examples include the mechanism for suspension of hawker licences and the implementation of the Hawker Assistance Scheme. On both counts, we have approached hawker associations to fully listen to their views before finalising the details of the mechanism and the scheme. We have also maintained close dialogue with hawkers in the process of implementing the scheme and kept up our engagement efforts through the HMCCs. Under the existing mechanism, appeal matters concerning hawker licences are handled by the Licensing Appeals Board (LIAB). On the other hand, meetings of the food and environmental hygiene committees of DCs are coordinated by the

Views/concerns of deputations/individuals	Administration's response
views/concerns of deputations/marviduals	secretariat of the respective DCs. It is for the DCs (rather than FEHD) to decide whether hawker associations or hawkers should be invited to join in the discussions when matters related to hawker policy and management are brought up for deliberations.
	If there is a need to review the hawker policy, the Food and Health Bureau and FEHD will consult other government departments as well as the stakeholders, and consider the views of various parties as appropriate. We do not consider it necessary to establish a dedicated committee separately to undertake this part of our work.
12. The Administration should review the feasibility to issue licences for operators of night market stalls which are dismantled after trading hours, and ensure their operations complying with requirements on food safety and food hygiene by introducing a grading system with the grades required to be prominently posted at the stalls.	
	complaints. The Government has no plan for the time being to re-issue new

Views/concerns of deputations/individuals	Administration's response
14. The Administration should review and update the legislative framework regulating hawking activities.	The Government has all along been trying to strike a sensible balance that can command overall community support among competing and evolving considerations in respect of hawker policy. We will review from time to time the propriety of existing policies and legislation relating to hawkers and make amendments when necessary.
15. The Administration should adopt a modern and scientific approach on managing hawkers, enhance enforcement trainings for hawker control teams, and step up the promotion of civic responsibilities among the	FEHD provides structured and tailor-made training to staff in the Hawker Control Officer (HCO) grade. The training programmes include induction training, refresher courses and experience sharing sessions. The content of the training programmes covers law and legal procedures related to hawker management, occupational knowledge and skills, as well as practical
public.	training. There are also specific training modules on personal effectiveness and management skills, including interpersonal skills, handling confrontational situations, emotional intelligence, stress management, risk assessment and crisis handling, and self-defence. In light of the changing social environment, FEHD will update the real-life cases on hawker management that are simulated in the refresher courses provided for different ranks of staff in the HCO grade, with a view to improving their handling skills when tasked to deal with difficult situations under various scenarios that may be encountered. FEHD will also update the content of the training programmes to meet actual operational needs as
	and when necessary. All along, FEHD has been making use of the HMCCs as a platform to disseminate messages calling upon hawkers to keep their stalls and surroundings clean and hygienic. From time to time we also appeal, through public education, for civic-minded acts on the part of each and every citizen to help keep Hong Kong clean.

Legislative Council Secretariat Food and Health Bureau Food and Environmental Hygiene Department

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