

**For discussion
on 18 November 2014**

**Legislative Council Panel on Food Safety and Environmental Hygiene
Subcommittee on Issues Relating to Public Markets**

Provision of Air-Conditioning in Public Markets

PURPOSE

At the meeting on 25 March 2014, the Subcommittee on Issues Relating to Public Markets (“Subcommittee”) requested the Administration to provide information on the installation of air-conditioning facilities in each public market and cooked food centre to facilitate Members’ discussion on the provision of air-conditioning in public markets. In particular, Members asked for details on whether air-conditioning was provided, the reasons for doing or not doing so, and the air-conditioning charging and maintenance arrangement. This paper provides the Administration’s response to the above request.

PROVISION OF AIR-CONDITIONING IN PUBLIC MARKETS

2. At present, three different types of ventilation systems are used in the public markets¹ of the Food and Environmental Hygiene Department (“FEHD”), including-

(a) Mechanical ventilation system

This system enhances natural ventilation through ventilation devices including ceiling or wall-mounted fans and/or ventilation ducts with air supply or extraction fans;

¹ Public markets include markets, cooked food centres and cooked food markets managed by the Food and Environmental Hygiene Department.

(b) Market Economic Air Treatment (“MEAT”) System

It is an open loop fresh air supply system through which outdoor air is drawn in by the air handling units and cooled down by chilled water or refrigerant and then discharged into the interior of the market through air ducts to lower the indoor temperature by about 2°C to 3°C below the prevailing external temperature; and

(c) Air-conditioning system.

The different types of ventilation systems installed in public markets are set out at **Annex I**.

Difficulties in retrofitting of air-conditioning systems

3. Most of the public markets with air-conditioning systems were built in or after the mid-1990s. Any request for retrofitting air-conditioning systems in existing markets has to be considered carefully given the following difficulties –

- (a) the design and layout of some older market buildings do not make allowance for the retrofitting of air-conditioning systems. They often lack sufficient electrical capacity and/or the necessary space and headroom for adding plant rooms and transformer rooms. Retrofitting air-conditioning systems in these public markets is therefore not always feasible;
- (b) even where physical constraints can be overcome, it usually requires substantial capital works (which may include structural strengthening works), disproportionately high capital costs² and

² The proposed retrofitting of air-conditioning system to the Fa Yuen Street Market and Cooked Food Centre was a notable example in which the costs and cost effectiveness of the retrofit were critically questioned. At the meeting of the Public Works Subcommittee of the Finance Committee on 21 May 2003, a number of Members expressed concern on the costs and cost effectiveness of the proposal. At that time, the estimated cost of the retrofit and other general improvements works was \$79 million for the 170 market stalls and 22 cooked food stalls (around \$0.41 million per stall on average). In view of the Members’ concern about the high capital cost, the Administration withdrew the proposal.

significant disruption to the tenants' business and operation of the public markets;

- (c) when undertaking such major retrofitting works, we would have to comply with the latest prevalent statutory requirements on building and fire safety (e.g. satisfying the minimum width of corridors and the minimum number of fire escape routes). Compliance with these latest statutory requirements, together with the possible need for space to accommodate the plant rooms and relevant equipment, may cause a reduction in the number of stalls in the public markets, which may not accommodate all existing tenants; and
- (d) air-conditioning plants generate noise and dissipate heat through condensers or cooling towers which are mostly located on open roof, and in some cases they may adversely affect occupants of those buildings adjacent to the existing low-rise market buildings.

Handling requests for retrofitting of air-conditioning systems

4. Under the existing practice, when there is a request for retrofitting of air-conditioning system at a public market, the request will first be discussed at the meeting of the relevant Market Management Consultative Committee ("MMCC"). If there is a consensus among members of the MMCC that the request should be further explored, FEHD will conduct a questionnaire survey to gauge the extent of support for the request among the market tenants. We will explain clearly to the tenants that apart from the tenants' preferences, the Administration will also have to take into account technical feasibility of the related works, proper use of public money, as well as commercial viability of the market in considering whether air-conditioning could be provided to the market in question. For the tenants' reference, the questionnaire will set out the range of relevant air-conditioning charges in other markets, and will also highlight the fact that there will be possible disruption to the tenants' business during the course of the retrofitting works. If 85% or more of the tenants support the proposal, the Administration will consider undertaking a detailed technical feasibility study. Taking into consideration the findings of the technical feasibility, extent of works required, cost effectiveness, length of business disruption,

tenants' views, etc., the Administration will then decide if there is a case for bidding resources for the retrofitting of air-conditioning systems.

5. We have so far maintained the threshold of tenants' support at 85%, a relatively high level, for good reasons. First, although Hong Kong's summers typically last only a few months³, the air-conditioning systems of the public markets will have to be turned on all year round for the purpose of ventilation once the public markets are enclosed for the air-conditioning systems to operate. All tenants will have to pay for the electricity charges and costs of general maintenance all year round and not only for the few summer months. This additional year-round operating cost is not something that the existing tenants took into account when they bid for the public market stalls in the first place. If a tenant refuses to pay, he will have no choice but to move out of the public market. This may cause serious hardship and difficulties to the livelihood of a larger number of tenants if the threshold is lowered.

6. Secondly, retrofitting of air-conditioning systems often involves partial or complete closure of the public market for months, which disrupts business and may adversely affect the livelihood of the tenants. For example, all the stalls of the Yue Wan Market and Cooked Food Centre were vacated for around 6 months in 2004 for the retrofitting of air-conditioning system. The vacation period may be longer in more complicated cases. Therefore, we believe it is only fair that a proposal to retrofit an air-conditioning system should not be considered until and unless a vast majority of the tenants accept the disruption of business during the retrofitting works.

7. It is worth noting that, in his 2003 Report No. 41, the Director of Audit observed that their findings did not seem to support the belief that providing air-conditioning systems can significantly improve the viability of

³ According to the Hong Kong Observatory, in the past 10 years (2004 – 2013), the number of very hot days (i.e. the highest temperature reached was 33 °C or above) were about three to 30 days each year and these days tended to concentrate within three to four months (http://www.hko.gov.hk/cis/statistic/vhotday_statistic_e.htm).

public markets⁴. At present, of the 101 public markets in operation, 32 of them have been retrofitted or installed with air-conditioning systems. Judging from the market stall vacancy rate, there is no evidence to show that public markets with air-conditioning are more popular with bidders.

ARRANGEMENTS OF AIR-CONDITIONING CHARGES

8. Under the existing practice, the Government is responsible for the capital costs for installing the air-conditioning systems. It is worth noting that the capital costs are not being recovered from the tenants through subsequent rental adjustments, unlike the usual arrangement adopted by commercial landlords. The Government's policy is to have the recurrent expenses, including electricity charges and general maintenance costs, borne by market tenants. There are however at present different air-conditioning charging arrangements adopted in parallel, depending on whether the public markets were previously managed by the former Urban Council or Regional Council, the year in which the public markets came into operation and the year in which the tenants entered into tenancy.

9. The former Urban Council adopted the "subsumed charging arrangement" and did not levy a separate air-conditioning charge. The Rating and Valuation Department would include the air-conditioned environment as one of the factors in assessing the Open Market Rental. The tenancy agreements ("TAs") for stalls in air-conditioned public markets only set out the rental without specifying the air-conditioning charges separately.

10. As for the former Regional Council, the tenants of the air-conditioned public markets under its management had to pay the air-conditioning charges (including electricity charges and general maintenance costs) separately. The TAs for stalls in air-conditioned public

⁴ Paragraph 5.15 of Chapter 2 of the Director of Audit's Report No. 41, dated 18 October 2003, stated that "the audit findings in paragraph 5.13 and 5.14 do not seem to support the belief that providing air-conditioning systems can significantly improve the viability of public markets..... Other important factors, including the price, variety and quality of the commodities offered for sale, the standards of cleanliness, and the location of the market, also affect the business of the market stalls".

markets managed by the former Regional Council specified that tenants must pay for the rental and air-conditioning charges separately (to be referred to as the “separate charging arrangement”). The monthly rental and air-conditioning charges were listed out separately in the TAs⁵.

11. After taking over the public markets from the two municipal councils, the Administration reviewed the arrangements for recovery of air-conditioning charges in public markets and considered that separate charging of rental and air-conditioning charges was more in line with the “user-pays” principle. In this connection, FEHD has adopted separate charging of rental and air-conditioning charges for all tenants in newly completed markets since 2002 and for all new tenants in all air-conditioned markets since July 2005.

12. At present, about 13% of the existing tenants in the air-conditioned public markets are still charged under the subsumed charging arrangement. For these tenants, we intend to introduce separate charging of air-conditioning into their tenancy upon renewal. However, due to the continuing extension of the market rental freeze since 1998 up to now, there has not been an opportunity to add a new clause to their TAs to specify separate charging of air-conditioning. The air-conditioning charging arrangements for various public markets provided with air-conditioning systems are at **Annex II**. For 2013-14, the amount of air-conditioning charges which was not recovered stood at around \$16 million.

VIEWS OF THE PUBLIC AND THE LEGISLATIVE COUNCIL

13. There have been requests from some representatives of market stall tenants for the Government to enhance the operating environment of public

⁵ This requirement was however waived by the former Regional Council for the tenants in Sha Tin Market, Yan Oi Market and Tai Kiu Market. It decided, at the meeting of its Environmental Hygiene Committee held in June 1996, to exempt the tenants of these three markets from paying all the charges relating to the air-conditioning system until tenancy renewal. Due to the continuing extension of the market rental freeze since 1998 up to now, there has not been an opportunity to add a new clause to the tenancy of these tenants to specify separate charging of air-conditioning. These tenants constitute about 47% of the existing tenants in the three markets and they have not paid any air-conditioning charges so far. For these three markets, tenants who have entered into TAs since 2003 are required by their TAs to pay air-conditioning charges separately from the stall rental.

markets by retrofitting air-conditioning systems. Many take the view that public markets should be regarded as community facilities, hence air-conditioning charges should not be borne solely by the tenants. Some consider that air-conditioning charges attributable to public areas of markets should be borne by the Government instead while tenants should only pay charges relevant to their stall areas. Some other representatives are of the view that the operating environment of public markets is difficult particularly for those with no air-conditioning and they call for the Government to enhance the operating environment of public markets by retrofitting air-conditioning systems.

14. When considering the above requests, it is worth noting that the high capital costs of retrofitting air-conditioning systems are already borne entirely by the Government. Unlike landlords in private commercial venues, who seek to recover the capital costs of retrofitting of air-conditioning systems through rental adjustments, the Government does not recover the capital costs. Bearing in mind the fact that tenants in public markets are in fact commercial operations, further Government subsidy in the form of air-conditioning charges may give rise to unfair competition between stalls in public markets and similar retail operators in private commercial retail premises, especially those in areas nearby. The proposal to exclude public areas of markets from the amount of air-conditioning charges payable by tenants would be a deviation from the existing practice in all Government rental properties. Since public areas are integral parts of the market trading environment and are used by the patrons of the stalls, it would only be reasonable for tenants to pay for the relevant air-conditioning charges. We see no justification to further subsidise tenants in this case.

15. At the Legislative Council Panel on Food Safety and Environmental Hygiene (“Panel”) meetings held in January and April 2013, there were views that the Administration should put in more efforts to install air-conditioning systems in public markets. Members also requested the Administration to conduct a comprehensive review covering the policy and usage of public markets. In light of the Panel’s request, the Food and Health Bureau has commissioned a consultant in December 2013 for developing proposals to improve the operating environment of public markets. As reported to the Subcommittee on previous occasions, besides

tendering views on the updated positioning and functions of public markets, the consultant will also survey public markets, collect views from tenants and other stakeholders, and come up with specific improvement proposals for a number of public markets. For the six public markets being further studied by the consultant for specific improvements, the Government will conduct surveys to gauge the extent of support for the retrofitting of air-conditioning systems among the tenants. We will brief the Panel / Subcommittee when the outcome of the consultancy study is ready.

ALIGNMENT OF AIR-CONDITIONING CHARGES

16. The present situation in which different air-conditioning charging arrangements apply to different tenants is less than fair and unsatisfactory. We will conduct a review to align the air-conditioning charging arrangements, and amend the TAs of the relevant tenants when such are due for renewal by the end of 2015. We will adopt the following principles in the alignment exercise and consult the respective MMCCs before implementation –

- (a) “user pays” - all tenants in an air-conditioned public market are required to pay electricity charges and maintenance costs due to that market according to a formula which reflects their fair share of such charges and costs;
- (b) full cost recovery – the air-conditioning charges to be paid by market tenants should aim to recover in full the recurrent costs incurred in the provision of such service, separate from market rental; and
- (c) parity – all tenants in an air-conditioned market should be required to pay air-conditioning charges according to the same formula. There is no question of some paying and some not paying.

17. We will apply the same principles to any existing FEHD markets for which we seek to provide air-conditioning system retrofitting, and will amend the TAs of the tenants accordingly.

ADVICE SOUGHT

18. Members are invited to note the content of this paper.

**Food and Health Bureau
Food and Environmental Hygiene Department
November 2014**

**Provision of Ventilation Systems in Public Markets
(as at 30 July 2014)**

No.	Market Name	Market			Cooked Food Centre (CFC)			Cooked Food Market (CFM)			
		AC	MEAT	MEC	AC	MEAT	MEC	AC	MEAT	MEC	
(I) Fully equipped with air-conditioning											
1.	Aldrich Bay Market and CFC	✓			✓			N/A			
2.	Apleichau Market and CFC	✓			✓						
3.	Centre Street Market and CFC	✓			✓						
4.	Chai Wan Market and CFC	✓			✓						
5.	Luen Wo Hui Market and CFC	✓			✓						
6.	Shek Wu Hui Market and CFC	✓			✓						
7.	Tai Kok Tsui Market and CFC	✓			✓						
8.	Tai Po Hui Market and CFC	✓			✓						
9.	Yue Wan Market and CFC	✓			✓						
10.	Lei Yue Mun Market	✓			N/A						
11.	Peng Chau Market	✓									
12.	Sai Ying Pun Market	✓									
13.	San Hui Market	✓									
14.	Sha Tin Market	✓									
15.	Tai Kiu Market	✓									
16.	Tsing Yi Market	✓									
17.	Wan Chai Market	✓									
18.	Yan Oi Market	✓									
19.	Yee On Street Market	✓									
20.	Mong Kok CFM	N/A							✓		
21.	Queen Street CFM								✓		
(II) Partly equipped with air-conditioning and partly with MEAT / mechanical ventilation system											
22.	Hung Hom Market and CFC		✓		✓			N/A			
23.	Lockhart Road Market and CFC		✓		✓						
24.	Pei Ho Street Market and CFC		✓		✓						
25.	Sai Wan Ho Market and CFC		✓		✓						
26.	Sheung Wan Market and CFC		✓		✓						
27.	Smithfield Market and CFC		✓		✓						
28.	Tai Shing Street Market and CFC		✓		✓						
29.	To Kwa Wan Market and CFC		✓		✓						

No.	Market Name	Market			Cooked Food Centre (CFC)			Cooked Food Market (CFM)		
		AC	MEAT	MEC	AC	MEAT	MEC	AC	MEAT	MEC
30.	Wong Nai Chung Market and CFC		✓		✓					
31.	Bowrington Road Market and CFC			✓	✓					
32.	Java Road Market and CFC			✓	✓					
(III) Equipped fully with MEAT System										
33.	Electric Road Market and CFC		✓			✓		N/A		
34.	Kowloon City Market and CFC		✓			✓				
35.	Po On Road Market and CFC		✓			✓				
36.	Shek Tong Tsui Market and CFC		✓			✓				
37.	Causeway Bay Market		✓		N/A					
38.	Sheung Fung Street Market		✓							
39.	Yeung Uk Road Market		✓							
(IV) Partly equipped with MEAT System and partly equipped with mechanical ventilation system										
40.	Fa Yuen Street Market and CFC		✓				✓	N/A		
41.	Kwun Chung Market and CFC		✓				✓			
42.	Shui Wo Street Market and CFC		✓				✓			
(V) Fully equipped with mechanical ventilation system										
43.	Aberdeen Market and CFC			✓			✓	N/A		
44.	Choi Hung Road Market and CFC			✓			✓			
45.	Heung Che Street Market and CFC			✓			✓			
46.	Kam Tin Market and CFC			✓			✓			
47.	Kwu Tung Market Shopping Centre			✓			✓			
48.	Ngau Chi Wan Market and CFC			✓			✓			
49.	Ngau Tau Kok Market and CFC			✓			✓			
50.	Quarry Bay Market and CFC			✓			✓			
51.	Sha Tau Kok Market and CFC			✓			✓			
52.	Sham Tseng Temporary Market and CFC			✓			✓			
53.	Tin Wan Market and CFC			✓			✓			
54.	Yue Kwong Road Market and CFC			✓			✓			
55.	Cheung Chau Market			✓	N/A					
56.	Haiphong Road Temporary Market			✓						
57.	Hung Shui Kiu Temporary Market			✓						
58.	Lai Wan Market			✓						
59.	Lam Tei Market			✓						
60.	Mui Wo Market			✓						

No.	Market Name	Market			Cooked Food Centre (CFC)			Cooked Food Market (CFM)								
		AC	MEAT	MEC	AC	MEAT	MEC	AC	MEAT	MEC						
61.	North Kwai Chung Market			✓	N/A	N/A	N/A	N/A	N/A	N/A						
62.	North Point Market			✓												
63.	Plover Cove Market			✓												
64.	Sai Kung Market			✓												
65.	Shaukeiwan Market			✓												
66.	Tai O Market			✓												
67.	Tai Wai Market			✓												
68.	Tang Lung Chau Market			✓												
69.	Tsuen King Circuit Market			✓												
70.	Tsuen Wan Market			✓												
71.	Tui Min Hoi Market			✓												
72.	Tung Chau Street Temporary Market			✓												
73.	Tung Yick Market			✓												
74.	Wing Fong Street Market			✓												
75.	Yau Ma Tei Market			✓												
76.	Chai Wan Kok CFM	N/A	N/A	N/A							N/A	N/A	N/A	N/A	N/A	✓
77.	Cheung Chau CFM															✓
78.	Cheung Sha Wan CFM															✓
79.	Cheung Tat Road CFM															✓
80.	Fo Tan (East) CFM															✓
81.	Fo Tan (West) CFM															✓
82.	Hung Cheung CFM															✓
83.	Ka Ting CFM															✓
84.	Kik Yeung Road CFM															✓
85.	Kin Wing CFM															✓
86.	Kin Yip Street CFM				✓											
87.	Kut Shing Street CFM				✓											
88.	Kwai Shun Street CFM				✓											
89.	Kwun Tong Ferry CFM				✓											
90.	Mui Wo CFM				✓											
91.	Nam Long Shan CFM				✓											
92.	Sze Shan Street CFM				✓											
93.	Tai Tong Road CFM				✓											
94.	Tai Yuen Street CFM				✓											
95.	Tsing Yeung CFM				✓											
96.	Tsun Yip CFM				✓											
97.	Tung Yuen Street CFM				✓											
98.	Wo Yi Hop Road CFM				✓											

No.	Market Name	Market			Cooked Food Centre (CFC)			Cooked Food Market (CFM)		
		AC	MEAT	MEC	AC	MEAT	MEC	AC	MEAT	MEC
(VI) No ventilation systems installed¹										
99.	Stanley Waterfront Mart				N/A			N/A		
100.	On Ching Road Flower Market									
101.	Lau Fau Shan Market									

Remarks:

AC – Air-conditioning system

MEAT – Market Economic Air Treatment System

MEC – Mechanical ventilation system

¹ No ventilation systems are installed as the markets are generally operated in an outdoor environment.

**Charging Arrangements for Public Markets with Air-conditioning Systems
(as at 30 July 2014)**

	Market	Charging Arrangements	
		Both Subsumed and Separate Charging ¹	Separate Charging ²
1	Aldrich Bay Market		✓
2	Apleichau Market	✓	
3	Centre Street Market	✓	
4	Chai Wan Market	✓	
5	Lei Yue Mun Market	✓	
6	Luen Wo Hui Market		✓
7	Mong Kok Cooked Food Market		✓
8	Peng Chau Market		✓
9	Queen Street Cooked Food Market		✓
10	Sai Ying Pun Market	✓	
11	San Hui Market		✓
12	Sha Tin Market ³		✓
13	Shek Wu Hui Market		✓
14	Tai Kiu Market ³		✓
15	Tai Kok Tsui Market		✓
16	Tai Po Hui Market		✓
17	Tsing Yi Market		✓
18	Wanchai Market		✓

	Market	Charging Arrangements	
		Both Subsumed and Separate Charging ¹	Separate Charging ²
19	Yan Oi Market ³		✓
20	Yee On Street Market	✓	
21	Yue Wan Market		✓
22	Bowrington Road Market (Only in CFC)		✓
23	Hung Hom Market (Only in CFC)	✓	
24	Java Road Market (Only in CFC)	✓	
25	Lockhart Road Market (Only in CFC)	✓	
26	Pei Ho Street Market (Only in CFC)	✓	
27	Sai Wan Ho Market (Only in CFC)	✓	
28	Sheung Wan Market (Only in CFC)	✓	
29	Smithfield Market (Only in CFC)	✓	
30	Tai Shing Street Market (Only in CFC)	✓	
31	To Kwa Wan Market (Only in CFC)	✓	
32	Wong Nai Chung Market (Only in CFC)	✓	

Remarks: CFC - Cooked Food Centre

¹ Air-conditioning (AC) charges are subsumed under the Open Market Rental for tenants who entered into the tenancy agreement (TA) before 1 July 2005. For those who have entered into the TA on or after 1 July 2005, they are required to pay separate AC charges besides the rental.

² Tenants of these air-conditioned markets are required to pay AC charges and rental separately.

³ Tenants of Sha Tin Market, Yan Oi Market and Tai Kiu Market who entered into TAs before 1 October 2003 are exempted from paying AC charges until tenancy renewal. However, tenants who have entered into the TAs on or after 1 October 2003 are required to pay AC charges separately.