

# 立法會 *Legislative Council*

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## **Panel on Food Safety and Environmental Hygiene**

### **Subcommittee on Issues Relating to Public Markets**

#### **Background brief prepared by the Legislative Council Secretariat for the meeting on 18 November 2014**

#### **Provision of air-conditioning facilities in public markets**

#### **Purpose**

1. This paper provides background information on issues relating to the provision of air-conditioning facilities in public markets and highlights major concerns of members of the Panel on Food Safety and Environmental Hygiene ("the Panel") and the Subcommittee on Issues Relating to Public Markets ("the Subcommittee") on the subject.

#### **Background**

##### Outstanding capital works projects of the two former Municipal Councils

2. Following the dissolution of the two former Municipal Councils ("MCs") in January 2000, the House Committee agreed at its meeting on 20 October 2000 to set up the Subcommittee to Follow up the Outstanding Capital Works Projects of the Former Municipal Councils ("the former Subcommittee") to follow up the outstanding capital works projects of the two former MCs, including 19 projects on retrofitting of air-conditioning in public markets and/or cooked food centres. The former Subcommittee urged the Administration to take forward all the 19 projects expeditiously in order to improve the hygiene condition and business environment of those public markets, and expressed disappointment at the Administration's position that a support rate of 85% among market stall operators was needed for taking forward these projects. A motion was passed at its meeting on 14 November 2002 urging the Administration to lower the support threshold from 85% to 70%. The former

Subcommittee suggested in its report<sup>1</sup> that the issue could be further pursued by the relevant Panel.

3. In March 2004, the Panel was briefed on the Administration's proposals of undertaking retrofitting of air-conditioning in three public markets and four cooked food centres<sup>2</sup> that already obtained the support of at least 85% of stall operators. For the remaining markets and/or cooked food centres with a net support rate below 85%, the Administration proposed to proceed with general improvement works but not retrofitting of air-conditioning. The Panel had no strong view on the Administration's proposals after taking into consideration that the Public Accounts Committee ("PAC") expressed reservation about the need and cost-effectiveness of providing air-conditioning systems in the 19 public markets in Report No. 41 of PAC in February 2004.

#### Review of public market tenancy agreements including air-conditioning charges

4. The Report No. 51 of PAC in 2009 criticized the Food and Environmental Hygiene Department ("FEHD") for its continued adoption of the versions of tenancy agreements used by the two former MCs irrespective of their discrepancies, and FEHD subsequently agreed to review and align different public market tenancy agreements including the arrangements for air-conditioning charges<sup>3</sup>.

5. When the Panel discussed various proposals of the Administration to align different public market tenancy agreements in July 2009, December 2010 and January 2013, members noted that the Administration proposed that the rent would be exclusive of rates, air-conditioning charges (if applicable) and other miscellaneous payments, all of which shall be paid by the tenant separately.

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<sup>1</sup> Refer to paragraphs 17 to 23 of the Report of the former Subcommittee (LC Paper No. CB(2)2523/02-03) for its deliberation on the retrofitting of air-conditioning in public markets and/or cooked food centres.

<sup>2</sup> These public markets and cooked food centres included (a) Bowrington Road Cooked Food Centre; (b) Yue Wan Market & Cooked Food Centre; (c) Fa Yuen Street Market & Cooked Food Centre; (d) Shek Wu Hui Cooked Food Centre; and (e) San Hui Market. Funding proposals for these projects (except for the Fa Yuen Street Market & Cooked Food Centre) were approved by the Finance Committee at its meetings on 16 May 2003, 23 June 2004 and 26 January 2005. According to the Administration, the Public Works Subcommittee questioned the cost-effectiveness of retrofitting of air-conditioning in Fa Yuen Street Cooked Food Centre, whereas the Yau Tsim Mong District Council and the Fa Yuen Street Cooked Food Centre stall operators expressed strong view that retrofitting of air-conditioning should be done in both the Market and the Cooked Food Centre.

<sup>3</sup> According to the Administration's paper for the Panel meeting on 14 July 2009 (LC Paper No. CB(2)2155/08-09(05)), the two former MCs adopted different mechanisms for air-conditioning charges as follows - (a) the former Urban Council did not levy separate air-conditioning charges for public markets under its management, as the air-conditioned environment was one of the factors in assessing stall rentals; and (b) for the former Regional Council, the tenants of air-conditioned markets under its management had to pay for air-conditioning charges (including electricity charges and maintenance costs) separately.

While the Government would continue to be responsible for the capital costs for installing the air-conditioning system, recurrent expenses including electricity charges and daily maintenance costs would be borne by stall operators in accordance with the "user-pays" principle.

#### Operating environment of public markets

6. The Panel held a number of meetings between 2009 and 2013 to discuss issues relating to the arrangement of public market tenancy agreements including air-conditioning charges, and received deputations' views at four of its meetings. Members were generally of the view that the Administration had failed to address the fundamental problems faced by stall operators in public markets including poor operating environment, outdated market facilities and low patronage. Members had repeatedly urged the Administration to take action to improve the operating environment of public markets including the installation of air-conditioning systems in all public markets, and expressed dissatisfaction that little progress had been made in this regard so far.

7. When the Subcommittee discussed issues relating to the operating environment of public markets at the meeting on 25 March 2014, members noted that as at the end of December 2013, air-conditioning facilities had not been installed in 57 of the 76 public markets and 19 of the 39 cooked food centres managed by FEHD.

#### **Members' concerns**

8. Members' concerns on the subject expressed at meetings of the Panel and the Subcommittee between June 2009 and June 2014 are highlighted below.

#### Installation of air-conditioning facilities

9. Members were of the view that improving the business environment of public markets, in particular, the provision of air-conditioning facilities was of utmost importance. Noting that there were still some public markets without air-conditioning, members repeatedly urged the Administration to install air-conditioning systems in these public markets so as to improve their operating environment. There was another view that the Administration should consider other improvement measures (such as upgrading air conveying facilities) if it was not feasible to take forward air-conditioning retrofitting projects in all public markets.

10. The Administration advised that a support rate of 85% among market stall operators was needed for taking forward air-conditioning retrofitting projects, as it was necessary to obtain a vast majority of stall operators' consent

to pay for the electricity charges and costs of daily maintenance afterwards, as well as their acceptance of the disruption of business during the retrofitting stage. The Administration assured members that it would consider conducting feasibility study on those air-conditioning retrofitting projects with a support rate of 85% among market stall operators, and explore the feasibility of upgrading air conveying facilities in public markets.

#### Air-conditioning charging arrangement

11. Members shared the deputations' views that it was unfair for the market stall operators to pay for the air-conditioning charges for common areas in public markets such as passages and lobbies, and suggested that stall operators should only pay charges pro rata to their stall areas. There was also a view that it was unreasonable to charge a uniform air-conditioning rate to stall operators operating at different locations of a public market, and a more reasonable approach should be to take into account the patronage or revenue of the stalls when determining the charging policy.

12. According to the Administration, the Government had all along been responsible for all capital costs for installing the air-conditioning systems in public markets and the costs for subsequent large-scale or system maintenance, while electricity charges and daily maintenance costs were borne by stall operators on a pro rata basis of floor area. Pointing out that it was common practice in all government rental properties to include public areas in the calculation of air-conditioning charges, the Administration maintained its view that public areas were an integral and inalienable part of the market trading environment, and this arrangement should remain unchanged based on the "user-pays" principle.

13. Nevertheless, members expressed dissatisfaction with the Administration's procrastination in installing air-conditioning facilities in public markets as well as the exclusion of common areas of markets from the calculation of air-conditioning charges. Members urged the Administration to - (a) review the required percentage of stall operator agreement prior to taking forward air-conditioning retrofitting projects in public markets; and (b) revise proposals on air-conditioning charges in conjunction with rental adjustment mechanism.

#### **Latest Development**

14. The Subcommittee will discuss issues relating to the provision of air-conditioning facilities in public markets including air-conditioning charging arrangement at the meeting on 18 November 2014.

**Relevant papers**

15. A list of relevant papers on the Legislative Council's website is in the **Appendix**.

Council Business Division 2  
Legislative Council Secretariat  
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**Relevant papers on  
Provision of air-conditioning facilities in public markets**

<b>Committee</b>	<b>Date of meeting</b>	<b>Paper</b>
Panel on Food Safety and Environmental Hygiene	2.6.2009 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	14 7.2009 (Item IV and V)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	3.5.2010 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	14.12.2010 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	22.2.2011 (Item I)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	8.1.2013 (Item IV)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	9.7.2013 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>
Subcommittee on Issues Relating to Public Markets	25.3.2014 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	23.6.2014 (Item III)	<a href="#">Agenda</a> <a href="#">Minutes</a>