

**For discussion  
29 June 2015**

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

**Operating Environment of Public Markets**

**PURPOSE**

This paper sets out the Government's planned follow-up actions on the recommendations made in the consultancy study on ways to improve the operating environment of public markets, and the Government's response to the views expressed by the Subcommittee and the individuals/organisations at the Subcommittee meeting on 1 June 2015, in particular those related to air-conditioning in public markets.

**FOLLOW-UP ACTIONS ON CONSULTANT'S RECOMMENDATIONS**

2. The Government is committed to improving the operating environment of public markets. The consultant has proposed a number of recommendations regarding how the hardware of the six selected markets should be enhanced. While the consultant had sought the tenants' views during the fact-finding stage of the study, we have been given to understand that it had not subsequently consulted the tenants on the specific recommendations made for the markets in which they operate. In addition, past experience also suggests that it is not uncommon for different tenants in the same market to hold different views. Therefore, to ensure that the follow up by the Government could strike an optimal balance among all affected interests, we would flesh out the details of improvement in consultation with affected tenants, the Market Management Consultative Committees ("MMCCs") and relevant works departments. We will proceed with the improvement works in accordance with the established rules and procedures relating to resource procurement as well as preparation and scrutiny of works projects.

3. We are fully aware that some market tenants hold the view that the operating environment of public markets is difficult particularly for those with no air-conditioning. Quite a number have been calling upon the Government to enhance the operating environment of public markets by retrofitting air-conditioning systems. The consultants have included the provision of air-conditioning systems in their improvement proposals for three of the six selected markets.

## **AIR-CONDITIONING**

4. At the Subcommittee meeting held on 18 November 2014, the Government provided information relating to the existing approach for handling requests for retrofitting air-conditioning in public markets and the arrangements pertaining to the payment of air-conditioning charges.

### **Retrofitting Air-conditioning in Public Markets**

5. Following the existing practice, a request for installation of air-conditioning system at a public market will first be discussed at the meeting of the relevant MMCC. Where there is a consensus among members of the MMCC that the request should be further explored, the Food and Environmental Hygiene Department (“FEHD”) will conduct a questionnaire survey to gauge the extent of support from market tenants for the request. 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 Government will conduct a detailed technical feasibility study. Taking into consideration the findings of the study, the extent of works required, cost effectiveness, length of business disruption and tenants’ views, the Government will decide whether there is a case for bidding resources for the installation of air-conditioning systems.

6. The Government takes note of the concern expressed by Subcommittee Members and some market tenants about the propriety of the existing threshold relating to the provision of air-conditioning system.

7. Regardless of where we pitch the threshold, it could hardly please everybody. When considering the adjustment to the existing arrangement, apart from the technical feasibility and resources implications, we have tried to

strike a proper balance among the interests of various stakeholders in a responsible manner.

8. With the air-conditioning system installed, a public market would have to be enclosed and the system has to be turned on all year round for adequate ventilation. All tenants will have to pay for the recurrent expenses, including the electricity charges and general maintenance costs for the whole year, and not just during the summer months. The additional operating cost related to the air-conditioning system is a factor that existing tenants might not have taken into account when they bid for their public market stalls. Any tenant who refuses to pay these charges will have to move out of the public market. We would not wish to under-estimate the acrimony that may arise.

9. Secondly, the provision of air-conditioning systems often involves partial or complete closure of the public market for as long as several months depending on the circumstances, hence possibly disrupting business and affecting the livelihood of tenants. In one previous case, all the stalls of a market-cum-cooked food centre had to cease business for around six months to facilitate the installation of air-conditioning system. The business cessation period may even be longer in more complicated cases. Tenants who do not support the installation of air-conditioning system will also be affected. The threshold that must be met in order to support a decision in favour of the installation of air-conditioning system should not be too low. Otherwise, disputes may proliferate.

10. Having taken into account the demand of tenants who would like to install air-conditioning system, as well as the need to make arrangements for those tenants who do not support the installation but have been running business in the public market concerned for many years, **the Government has decided to lower the threshold from 85% to 80%, with effect from 1 July 2015.** We are fully aware that some Members have proposed a lower threshold, with some proposals going as far as 50% only. Given the considerations outlined in paragraphs 7 – 9 above, there are merits in adopting a gradual and cautious approach so as to reduce possible confrontations frustrating the smooth delivery of projects endorsed through the consultative process described in paragraph 5 above. The Government is willing to keep the 80% threshold under regular review.

### **Arrangements for Payment of Air-conditioning Charges**

11. We are fully aware of the suggestion from some market tenants

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.

12. 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.

13. Some Subcommittee Members have previously pointed out that tenants of retail shops in commercial shopping arcade are only charged the air-conditioning attributable to the shop area but not the common area in the shopping arcade. We wish to point out that it is not appropriate to draw a direct comparison between commercial shopping arcades and public markets as there are fundamental differences between the two though they are both retail outlets.

14. First, shops in commercial shopping arcades are enclosed. In most circumstances, the trading of goods happens inside the shop areas. In contrast, public market stalls are not enclosed. In normal circumstances, customers in public markets stay in the corridor (i.e. the common area) when choosing and purchasing the goods. As most of the stalls are of small size, it is rare to see customers having to trade inside the stall areas. The so-called common area in public markets is in reality part of the trading environment.

15. Secondly, tenants in commercial shopping arcade are generally required to pay management fees. In contrast, public market tenants are not required to pay any management fees.

16. 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.

## **IMPROVEMENT WORKS ALREADY IN THE PIPELINE**

17. All along, we have been conducting various improvement works in public markets to improve the operating environment. In the past three financial years, apart from regular maintenance works, we conducted improvement works in 13 markets. The total expenditure of the improvement works was around \$36.8 million. The works included improvements to the drainage, ventilation, lighting, fire services equipment, signage, as well as the replacement of floor tiles, refurbishment of toilets and provision of barrier free access. In 2015-16, we have earmarked \$58.6 million to conduct improvement works in five markets, namely, Kwun Chung Market, Haiphong Road Temporary Market, Pei Ho Street Market, Smithfield Market and Tai Wai Market.

18. In some markets where no less than 85% of tenants have shown support for retrofitting air-conditioning system (for example, Tai Wai Market and Shui Wo Street Market Cooked Food Centre), FEHD has already sought relevant works departments' assistance in conducting the feasibility study. In the interim, FEHD has installed some evaporative air coolers for the purpose of alleviating the ventilation in the markets. FEHD would keep in close view of the situation and would consider further mitigation measures where necessary.

19. In addition, to ensure the smooth operation of escalators in the public markets, we have plans to replace by phase the escalators which are over 20 years old. In 2015-16, we have earmarked \$87.5 million to replace 35 escalators in 13 markets. The replacement works are expected to be completed by 2017.

## **CONCLUDING REMARKS**

20. Experience suggests that the community's perception of public markets and expectation of their operating environment change with time. Hardware, however, is not as mutable. Also affecting the specific circumstances of a market would be the changes in the composition of the

residential and commercial neighbourhood as well as the profile of the tenants operating therein. Hence, a perfect way forward meeting the prevailing interests and aspirations of all parties concerned may not be always available. Realistically, we would have to adopt an incremental approach while seeking to strike a sensible and reasonable balance among all relevant considerations.

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