

For discussion

29 June 2015

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

Matters related to Public Market Stall Rental

PURPOSE

This paper sets out the Government's proposed way forward for various matters related to public market stall rental.

BACKGROUND

Last proposal in January 2013

2. In the past few years, we have put forward to the Legislative Council ("LegCo") Panel on Food Safety and Environmental Hygiene ("the Panel") three different sets of proposals on the public market rental adjustment mechanism for discussion in 2009, 2010 and 2013 respectively.

3. When we last consulted the Panel on this subject in 2013, Members of the Panel and the attending trade representatives opined that the Government should conduct a comprehensive review covering the policy and usage of public markets and improve their operating environment before considering the new rental adjustment mechanism.

4. The latest extension of the rental freeze period will end on 31 December 2015.

Consultancy study

5. Pursuant to the discussion referred to in paragraph 3 above, the Government commissioned a consultant to recommend proposals for improving the operating environment of public markets, thereby enabling them to better fulfil the functions expected of them in present-day

circumstances. The findings of the consultancy study have been presented to the Subcommittee vide separate papers¹.

6. The consultant has made some observations / recommendations regarding the functions and positioning of public markets. The following are of particular relevance to public market stall rentals –

- (a) it is not appropriate to treat markets as social welfare as no means tests or assessments have been conducted to judge the eligibility of bidders before letting out market stalls; and
- (b) since the Government does not control prices, it is not realistic to expect that public markets could take on the function of stabilising the prices of goods or food.

7. The consultant sees the continuation of low rental for many of the stalls as an inducement for the sub-optimal use of market stalls (e.g. as storage space) which in turn dampens the vibrancy of public markets. The consultant thus recommends the Government to address the rental issue. We concur and consider it necessary to identify a reasonable rental adjustment mechanism which allows the rent of market stalls to catch up with rents of broadly comparable stalls which have been recently allocated through open bidding in public markets.

UPDATED POSITION

8. As at 31 December 2014, 13 178 stalls out of a total of 14 443 stalls in the public markets were let out. The occupancy rate stood at 91%. Of these 13 178 stalls, 78% are let out at a rental lower than the latest available open market rental (“OMR”).

9. The market stall rental and air-conditioning charges received in 2014-15 amount to \$449.5 million. The annual operating expenditure for operating public markets in 2014-15 is \$777.3 million, out of which \$641.6 million is out-of-pocket expenses including expenses on light and power, cleansing, pest control, market management, security guard, electrical and

¹ The key findings of the consultancy study were presented to the Subcommittee at its meeting on 20 January 2015 (ref.: LC Paper No. CB(2)643/14-15(01)). The consultant’s final report was published on 22 May 2015 and attached to the paper discussed by the Subcommittee on 1 June 2015 (ref.: LC Paper No. CB(2)1544/14-15(01)).

mechanical services, rates and capital and other non-recurrent cost. FEHD recorded a deficit of \$327.8 million in the management of public markets in the same year.

10. In his Report No. 64 published in April 2015, from the perspective of value for money, the Director of Audit recommended that we should expedite action to establish a suitable rental adjustment mechanism for public markets given that the rentals of most of the stalls are far below the OMR, thus incurring substantial deficits for managing public markets.

11. In particular, the Audit commented on the Government's latest "CPI(A) proposal" which was put before the Panel in January 2013. Since the rentals of many stalls were far below the OMR, the Audit commented that, under the proposed adjustment mechanism, it would take a long time for rentals to catch up with the OMR. Using the example of a stall with a monthly rental equivalent to 50% of the OMR, the Audit estimated that the stall rental would require about 15 increments or 45 years to catch up with the OMR at the *current* price level.

RE-EXAMINATION OF MECHANISM

12. The Government will re-examine the proposed rental adjustment mechanism in the following three aspects.

(a) The concept of OMR

13. We note that LegCo Members have queries about using OMR as the basis for rental adjustment as some interpreted OMR as being equivalent to the rental in private markets.

14. The OMR for public markets is indeed assessed by the Rating and Valuation Department ("RVD"), with reference to the auction results of similar stalls in the same market and other markets. Other factors that are taken into consideration include the trade permitted for operation, the size and layout of the stall, the location of the stall within the market and the location of the market. For market stalls, there are restrictions on the permitted trades which have been taken into consideration in the assessment of OMRs. We shall look into the concept and nomenclature of OMR.

(b) The payment of rates and air-conditioning (“A/C”) charge

15. Currently, FEHD is paying rates for public market tenants. In 2014-15, FEHD had paid \$36.3 million of rates for all occupied public market stalls to RVD. In its report of February 2009, the LegCo Public Accounts Committee expressed concern that rates had not been recovered from stall tenants, despite stipulation in the tenancy agreements that tenants were responsible for their rates payment. The Director of Audit recommended that the Government should explore recovering the rates payable by the tenants.

16. On various previous occasions, the Panel expressed objection to the idea of recovering rates from the stall tenants in public markets generally². We are in discussion with RVD on rates assessment of public market stalls with a view to identifying a way forward that can balance the interests of the tenants and safeguarding the prudent use of public money.

17. Apart from the rates, due to the successive extension of the rental freeze for most market stalls since 1998, there has not been any opportunity to update the A/C charges for these stalls in accordance with any actual changes to electricity charges and maintenance costs. Besides, not all tenants in air-conditioned public markets are paying A/C charges. For 2014-15, the amount of unrecovered A/C charges stood at around \$14 million. We consider it a matter of principle that A/C charges should *eventually* be fully paid for by the users.

18. To inform the community of the anomalies relating to public market stall rentals, we intend to break down in the rental demand notes showing the amounts of the rental which the tenant would otherwise have to pay in order to defray the A/C charges (if applicable) and the rates.

(c) Correlation between the level of market rentals and the prices of goods sold in markets

19. Allocation of stalls is by open auction without any means testing. Similarly, no means testing was conducted when tenancy in public markets were allocated to displaced hawkers and tenants re-sited from other public markets. Hence there should not be any systemic correlation between tenancy and socio-economic status.

² On 13 April 2010, the Panel passed the following motion: “[t]hat this Panel urges the Government to continue to pay the rates on behalf of public market stall tenants in the territory, so as to support small business operations in markets”.

20. As pointed out by the consultant, the Government does not control prices and it is therefore not realistic to expect that public markets could take on the function of stabilising the prices of goods. Nevertheless, noting some Members' concern about the possible correlation between rentals and prices, we shall consider further this factor with a view to facilitating the formulation of a fair and reasonable rental adjustment mechanism.

WAY AHEAD

21. We take the consultant's advice that rationalisation of public market rental charges is essential to revitalising public markets. The rationalisation should look into not just the freeze of the rental level since 1998 but also ancillary aspects such as the concept and nomenclature of OMR, payment of rates and A/C charges as well as possible correlation between rental levels and price levels. Nevertheless, we are keenly aware that any adjustment needs to be fair, reasonable and administered through a phased approach so as to minimise adverse effects on the tenants. We aim to revert to the Panel with a proposal in 2016.

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