

For Discussion on the Special Meeting on 27 June 2008

LegCo Panel on Food Safety and Environmental Hygiene

**ENHANCED MEASURES FOR
PREVENTION OF AVIAN INFLUENZA OUTBREAK**

Purpose

This paper informs members' of the Government's proposals on: (a) banning overnight stocking of live poultry at the retail level; and (b) offering a buyout package for the live poultry trade to further its policy objective of separating live poultry from humans.

Justifications

2. Since 1998, we have put in place a comprehensive preventive and surveillance programme to reduce the risk of avian influenza outbreaks in Hong Kong. The measures included tight biosecurity measures at local farms, enhanced import control, market rest days, stringent hygiene requirements on wholesale and retail markets, etc. In 2003, we introduced a vaccination programme for all local chicken farms and we also required all imported live chickens to be vaccinated against the disease. The World Health Organization (WHO) has publicly commented that the preventive and surveillance programme of Hong Kong is one of the most advanced systems that they have seen.

3. However, these measures are not foolproof, as seen from the repeated avian influenza outbreaks in the past ten years. There remains a risk that the virus may infect humans, especially given that the public can have close contacts with live poultry, which are sold in retail outlets in Hong Kong. The crowded living environment in Hong Kong further amplifies the risk. Although our chickens have been vaccinated against H5 avian influenza, vaccination itself cannot totally remove the risk of any H5N1 avian influenza virus re-assorting or mutating to the extent that it may pose a threat to public health. On the other hand, the virus may also re-assort with other human influenza to produce a lethal human pandemic strain. Recent avian influenza outbreaks in the Mainland, Southeast Asia and other countries, such as Korea and Pakistan, indicated an increasing threat of the avian influenza virus in the region. As at 19 June 2008, WHO reported 122 cases of human infection of H5N1 since January 2007, of which 85 cases were fatal.

4. The recent detection of H5N1 avian influenza virus in environmental swabs taken from four local retail markets on 3 and 7 June 2008 indicated that despite all the preventive and control measures that we have put in place, they are inadequate in totally containing the public health risks posed by avian influenza, especially at the retail level. The location of these four retail markets (i.e. in Fanling, Tuen Mun, Sham Shui Po and Ap Lei Chau) further suggested that the virus may have a propensity to spread. Whilst we are actively tracing the source of the virus, we may not in the event be able to pinpoint any one particular reason to account for the virus detected in the retail markets. There were suggestions that the source might be smuggled chicken, yet without intelligence, it is difficult to crack down or eradicate smuggling of the kind. Whatever is the cause, the hard fact of life is that the whole population of Hong Kong is still subject to the menace of avian influenza outbreak. There is therefore an imperative need to enhance our ability to arrest any possible spread of avian influenza virus in Hong Kong in the future, thereby reducing the risks of human infection of avian influenza.

5. Past experience has shown that the principal mode of transmission of the avian influenza virus from poultry to human is through contact with infected live poultry or their faeces. Hence, the most effective way to minimize the health risk posed by avian influenza is to reduce as much as possible the contact between human and live poultry.

Prohibition of Overnight Stocking at Retail Outlets

6. We need to introduce new measures at all levels of the supply chain, especially the retail level, to improve our current surveillance system and enhance our ability to arrest any possible future spread of avian influenza virus in Hong Kong.

7. We propose to prohibit overnight stocking of live poultry at all retail outlets by making legislative amendments to the Food Business Regulation (Cap. 132X). Scientific research showed that the introduction of rest day was an effective means to break the virus cycle and reduce the virus load in the environment. Moreover, when a chicken is infected by the avian influenza virus, there will be an incubation period of one to five days when the virus would multiply to a sufficient number to be detectable in the excreta. If we prohibit overnight stocking of live poultry at retail outlets, i.e. to introduce a daily rest night, any unsold chicken will be slaughtered and the cages can be thoroughly cleansed and disinfected to avoid accumulation of virus in the environment of the retail outlets.

8. Furthermore, prohibition of overnight stocking of live poultry at retail outlets will make it easier for the Administration to monitor whether there are

smuggled chickens at the retail level. This new measure will also discourage the retailers to sell smuggled chickens as any unsold chicken at the close of the day's business has to be slaughtered and be sold as dressed chicken at a much lower price. Whilst this proposed new measure will have an adverse impact on the trade's operation and is resisted by the trade, we consider it feasible and should be put in place, if retailers are to be allowed to resume business.

9. We have considered other alternatives, such as increasing the market rest days from two per month to once every week. However, we consider that such a measure is inadequate in arresting the possible spread of avian influenza. In the avian influenza incident in June 2008, the second market rest day in May was 25 May 2008 whereas the first batch of environmental samples tested H5N1 positive were collected on 3 June 2008, i.e. just one week after the market rest day. This indicated that merely increasing the number of market rest days to once per week might not be able to significantly reduce the amount of virus load in the environment. Besides, when a chicken is infected by avian influenza virus, it may only take a couple of days or less for the virus to multiply. The close proximity between the chickens at the retail outlets and their excreta allows the rapid spread of avian influenza from one infected chicken to others. Similar incremental arrangement of increasing market rest days, for example even to twice a week, would not be sufficient to prevent the spread of avian influenza.

10. Apart from prohibiting the overnight stocking of live poultry, we will also enhance other preventive measures at the retail end. These include requiring the retailers to thoroughly cleanse and disinfect the retail premises including slaughter equipment and chicken cages every night, as well as strict enforcement of existing measures like requiring retailers to wear protective gears. Not observing these requirements could result in licence cancellation or termination of tenancy.

11. In the wholesale market, we will closely monitor its daily throughput to ensure there is no over-stocking which poses a public health risk and environmental hygiene problem. We will liaise with the poultry importers and local farmers to appropriately adjust the number of poultry channelled to the wholesale market, if there is evidence to support that the live poultry trade has shrunk further because of the prohibition of overnight stocking at the retail level and the reduction of retailers in the trade.

Legislative Amendments

12. To prohibit the overnight stocking of live poultry at retail outlets, we propose that the amendments to the Food Business Regulation (Cap. 132 sub. leg. X) should take effect on 2 July 2008 to allow the trade some time after the gazettal on

27 June 2008 to familiarize themselves with the new requirement. The proposed legislative timetable is as follows –

Publication in the Gazette	27 June 2008
Tabling in Legislative Council (LegCo) for negative vetting	2 July 2008
Amendment Regulation commences operation	2 July 2008
Expiry of 28-day negative vetting period	15 October 2008, i.e. the second meeting in the 2008/09 legislative session
Expiry of 49-day negative vetting period (if there is extension of the vetting period for 21 days)	5 November 2008, i.e. the first meeting after the 21 days from the second meeting in the 2008/09 legislative session

13. A LegCo Brief on the Amendment Regulation has been issued to members on the day of gazettal i.e. 27 June 2008. A copy of the Amendment Regulation is attached at Annex A for members' reference.

The Buyout Package

14. The poultry retail trade considered that it would be very difficult to adapt to the new operating environment of allowing no stocking of live poultry overnight at retail outlets. The retailers have expressed a strong wish for the Government to buy out their business so that they can leave the live poultry trade for good. Considering this position of the retailers, the other traders in the live poultry trade would also be in turn affected. In view of the above, we are now negotiating a buyout package with all the different sectors of the live poultry trade. Provided around 90% of the retailers would leave the trade, we would offer a buyout package for the farmers, wholesalers, retailers, transporters and workers to take up.

15. We propose to use the formulae adopted in the previous Voluntary Surrender Schemes (VSS) launched for the live poultry trade in 2004 and 2005 as the basis for calculating the ex-gratia payment (EGP) and financial assistance under this buyout package. Details of the package offered in the VSS are set out at Annex B. As at June 2008, there are 52 poultry farmers (including 50 chicken and two pigeon farmers), 71 wholesalers, 469 retailers and around 250 transporters

remaining in the live poultry trade. The number of affected workers is around 2 500. Given that the traders would need to opt to cease business within a short period of time and be permanently out of the live poultry trade, we consider it reasonable and appropriate to offer a higher amount of EGP to them. The buyout package we offered to the trade on 20 June 2008 amounts to about \$900 million, which is around three times of that under the VSS.

16. The local farms have ceased business following the declaration of all retail outlets selling live poultry as infected places. Around 400 000 chickens on farms will have passed the average marketable age of 84 days. Whilst these chickens can be despatched to the retail outlets starting from 2 July, they will probably fetch a lower market price. As such, we propose to offer the local farmers \$30 per chicken for these 400 000 chickens to provide some relief.

17. We have conducted several rounds of negotiation with various sectors of the trade in the past week or so. In response to the views of the trade, we have suitably made some adjustments to our initial proposed package. The latest proposed buyout package offered to the different sectors of the live poultry trade, which amounts to slightly over \$1 billion, is described in the ensuing paragraphs.

Poultry Farmers (52 in number)

18. As in the VSS, the calculation of EGP in the proposed buyout package for live poultry farmers will be broadly based on the current formulae for calculating ex-gratia allowances for poultry farmers and farm buildings affected by land resumption and clearance for public work projects, as approved by the Finance Committee (FC) of LegCo. We consider it reasonable to continue to adopt the more lenient factors for calculating the EGP as in the VSS such as assuming all poultry farm structures are new and fully enclosed and including a component accounting for the average installation cost of metallic chicken-rearing cages. The amount of EGP payable to each farmer depends on the sizes of various farm structures such as chicken sheds, storage and cage areas, etc.

19. In addition, we propose to suitably enhance the lump sum payment which accounts for the overall infrastructure and facilities in relation to biosecurity such as disinfectant pool, bird-proof nets, solid farm gate and solid partitions. These facilities are requirements specified in the licensing conditions and farmers are required to renew and upkeep these facilities in good operating order. We have offered to the trade to triple the lump sum payment of \$0.15 million for biosecurity facilities under the VSS to \$0.45 million for each chicken farm and from \$50,000 to \$0.15 million for each pigeon farm. In response to the farmers' request for a higher payout during our recent discussion, we are exploring whether there is any upside room for refinement.

20. To better reflect the scale of operation in poultry farms, we further propose to remove the maximum ceiling of \$4.15 million imposed on the total compensation payable to each farmer in the VSS. Among the 52 poultry farms, 11 larger chicken farms will benefit from the removal of the cap. The total amount of EGP and one-off lump sums for each chicken farmer under our latest offer ranges from \$0.68 million to \$15 million.

21. If a live poultry farmer accepts our proposed buyout package but has difficulty in disposing of his stock through the normal sales channels, we will arrange culling operation for all the current stock of poultry in that particular farm and offer an ex-gratia payment for each bird destroyed according to the rate below –

Hatching eggs	\$5 / egg
Chicken of 30 days old or below	\$20 / chicken
Chicken of above 30 days old	\$42 / chicken
Pigeon	\$18 / pigeon

Live Poultry Wholesalers (71 in number)

22. For the live poultry wholesalers, we propose to offer an enhanced EGP calculated on the basis of three times of the previous VSS rate. As a further enhancement to help wholesalers to tide over the change in business, an additional lump sum will be offered, based on different bands of stalls set to reflect the size and type of stalls. A minimum amount of EGP payable will be set for the small-sized stalls (i.e. those up to 50 m²) and a maximum ceiling of 250 m² will be set for the large-size stalls (i.e. those stalls over 200 m²) as the business volume of live poultry wholesalers does not necessarily increase proportionately with the increase in stall size. The following table shows the additional lump sum for various bands of stalls in the wholesale market –

Size of wholesale stalls (m ²)	Additional lump sum (\$)	Proposed EGP per wholesale stall (\$)
Up to 50	200,000	1,369,102
Up to 50 (stalls equipped with better facilities)	400,000	1,569,102
Above 50 – 100	-	-
Above 100 – 150	120,000	3,151,004
Above 150 – 200	-	-
Above 200	250,000	5,301,674

Live Poultry Retailers (469 in number)

23. For retailers who choose not to sell live poultry at their public market stalls or surrender the endorsement to sell live poultry on their Fresh Provision Shop licences, we propose to offer an enhanced EGP calculated on the basis of three times of the previous VSS rate, with some further overall enhancement. The EGP will be calculated in accordance with the size of their stalls which are divided into nine bands, instead of five in the previous VSS. As a result, larger stalls (i.e. those over 45 m²) will receive a larger amount to reflect their scale of operation and higher income. Same as the calculation for wholesalers, the proposed EGP is also based on the maximum size of that particular band. The following table shows the EGP for retail stalls in various bands –

Size of retail stalls (m ²)	Proposed EGP per retail stall (\$)
Up to 15	750,000
Above 15 – 25	906,000
Above 25 – 35	1,113,000
Above 35 – 45	1,386,000
Above 45 – 55	1,746,000
Above 55 – 65	2,064,000
Above 65 – 75	2,381,000
Above 75 – 90	2,699,000
Above 90	3,129,000

Live Poultry Transporters (around 250 in number)

24. To assist live poultry transporters in upgrading/converting their vehicles so as to transform their business from transporting live poultry to transporting chilled/frozen poultry/meat or other business operations, we also propose to provide them with an enhanced EGP. All transporters, no matter whether they have car park tenancies at the wholesale market or not, will be eligible for the EGP. The proposed EGP for each vehicle with monthly car parking tenancy at the wholesale market is \$0.17 million whereas for those without is \$0.15 million. The difference of \$20,000 takes into account representations from the trade for greater recognition for car park tenants at the wholesale market. In the previous VSS, an EGP at up to \$50,000 per vehicle was only provided to those transporters that had rented parking spaces at the wholesale market on a monthly basis while those who had not were only offered unsecured loans at up to \$50,000 per vehicle.

Live Poultry Workers (around 2 500 in number)

25. To assist those local workers of the live poultry farm, wholesale and transport industry (including vehicle drivers, if they are not the owner of the vehicle, and porters) who would leave the trade as a result of cessation of business of their employers, we propose to provide a one-off grant of \$35,000 to each worker. This amount is equivalent to three months of the average salary of a semi-skilled worker according to the pay statistics in 2007.

Way Forward

26. We will continue our discussion with the trade with a view to reaching a consensus as soon as possible. If a substantial majority of the retail traders, say around 90%, accept our buyout package whereas some insist on continuing the live poultry trade, we propose to offer the package to those who choose to leave the trade within a specified timeframe. The time limit for the retailers should be one month (i.e. by 24 July 2008), subject to funding approval by FC. The reason is that a number of retailers have indicated that they preferred to make an earlier decision on whether to quit the trade and accept the buyout package. Also, as the decision of the retailers will have significant implications on other sectors of the trade, an earlier timeframe is considered appropriate. For the farmers, wholesalers and transporters, the time limit should be three months (i.e. by 24 September), again subject to funding approval by FC. This longer time limit will afford the farmers, wholesalers and transporters a chance to gauge their business viability following the development at the retail level before they exercise their option. It would also allow time for the farmers to dispose of their remaining poultry stock through the normal sales channel.

27. For those who choose to stay in the live poultry trade, we shall make clear to them that they will bear the risks of any further avian influenza outbreaks in Hong Kong. No EGP or financial assistance, other than the statutory compensation (i.e. a maximum of \$30 per bird slaughtered), will be provided to them in the event of an avian influenza outbreak in future.

28. We shall in the long term explore whether there are other legislative or administrative means to achieve our policy objective of separation of live poultry and humans. We shall also revisit our plan to develop a poultry slaughtering and processing plant in Hong Kong, taking into account the decrease in consumption of live chickens in recent years and the economic viability of the plant. Following the prohibition of overnight stocking of live poultry at the retail level and that many traders may choose to leave the live poultry trade, as well as increased public preference for chilled and frozen chicken, it may no longer be economically viable

to build a poultry slaughtering and processing plant in Hong Kong.

29. We aim to seek funding approval from the FC on 4 July 2008.

Food and Health Bureau
June 2008

**FOOD BUSINESS (AMENDMENT)
REGULATION 2008**

(Made by the Director of Food and Environmental Hygiene under section 56 of the Public Health and Municipal Services Ordinance (Cap. 132))

1. Commencement

This Regulation shall come into operation on 2 July 2008.

2 Restriction on sale, etc. of specified articles

(1) Section 30(2)(a) of the Food Business Regulation (Cap. 132 sub. leg. X) is amended by adding “, subject to section 30AA(2),” before “be valid”.

(2) Section 30(2)(b) is amended by adding “, subject to section 30AA(2),” before “be valid”.

(3) Section 30(2)(c) is amended by adding “subject to section 30AA(2),” before “be valid”.

3. Section added

The following is added after section 30 –

**“30AA. No live poultry at retail
premises overnight**

(1) A permittee shall ensure that –

(a) each day, before 8:00 p.m., all live poultry remaining at the relevant permitted premises (whether sold or unsold) is slaughtered; and

(b) there is no live poultry at the permitted premises between 8:00 p.m. each day and 5:00 a.m. the next day.

(2) Without limiting any other powers the Director has in respect of the revocation of a permission, the Director may revoke the relevant permission if subsection (1) is contravened.

(3) In this section –
“permission” (准許) means a permission granted under section 30(1)(a) in respect of any food specified in item 4(a) and (b) of Schedule 2;
“permitted premises” (獲准許處所), in relation to a permission, means the premises at which the relevant permittee is permitted to sell or offer or expose for sale, or possess for sale or for use in the preparation of any article of food for sale, any food specified in item 4(a) and (b) of Schedule 2;
“permittee” (獲准許人士) means a person who has been granted a permission.” .

4. Offences and penalties

(1) Section 35(1)(a) is amended by adding “30AA(1),” before “30A”.

(2) Section 35(3)(a) is amended, in the English text, by repealing “31(1)” and substituting “31(1),”.

(3) Section 35(3) is amended by adding after paragraph (a) –

“(aaa) in the case of an offence under section 30AA(1), a fine at level 5 and imprisonment for 6 months;” .

(4) Section 35(3)(aa) is amended, in the English text, by repealing “30C(1)” and substituting “30C(1),”.

5. Restricted foods

Schedule 2 is amended, within the square brackets, by adding “, 30AA” after “ss. 30”.

Director of Food and Environmental Hygiene
2008

Explanatory Note

This Regulation amends the Food Business Regulation (Cap. 132 sub. leg. X) to –

- (a) require the slaughtering of all live poultry remaining at retail premises before 8:00 p.m. each day; and
- (b) require that there is no live poultry at retail premises between 8:00 p.m. each day and 5:00 a.m. the next day.

**2004/05 Voluntary Licences / Market Tenancies Surrender Scheme
for the live poultry trade**

	Item	Proposal
Farmers		
<i>Ex-gratia payment (EGP)</i>	Amount	Calculated according to the size of farm structures and chicken cages plus an additional lump sum for relevant investment in biosecurity facilities
	Lump sum for investment in biosecurity facilities	\$0.15 million per chicken farm \$50,000 per pigeon farm
	Minimum for each chicken farm	\$0.45 million
	Maximum for each chicken farm	\$4.15 million
	Enhancement for pigeon farms	Additional \$0.1 million per licence to the EGP amount derived from the formula (provided that the total EGP payable per licence does not exceed \$0.35 million)
Wholesalers		
<i>EGP</i>	Amount	39 months of the average rental plus 40-60% enhancement for each stall in wholesale market
	Amount for various categories of stalls :	
	(i) Up to 50m ²	\$383,363
	(ii) Above 50m ² to 100m ²	\$662,603
	(iii) Above 100m ² to 150m ²	\$993,905
	(iv) Above 150m ² to 200m ²	\$1,325,206
	(v) Above 200m ²	\$1,656,508

	Item	Proposal
Retailers		
<i>EGP</i>	Amount	39 months of the average rental for each market stall plus 40-60% enhancement for each retail stall
	Amount for various categories of market stalls :	
	(i) Up to 15m ²	\$200,000
	(ii) Above 15m ² to 25m ²	\$252,000
	(iii) Above 25m ² to 35m ²	\$321,000
	(iv) Above 35m ² to 45m ²	\$412,000
	(v) Above 45m ²	\$503,000
Transporters		
<i>EGP</i>	Amount (only for those with monthly car park tenancies at the wholesale market)	Up to \$50,000
<i>Loans</i>	Amount (for those without a monthly car park tenancy at the wholesale market)	Up to \$50,000
Local workers concerned		
2004		
<i>Special allowance</i>	Amount per worker who attended retraining courses	Up to \$8,000
<i>One-off grant</i>	Amount per worker who remained unemployed after attending retraining courses within a six-month period from the date of cessation of business of its former employer	\$10,000
2005		
<i>One-off grant</i>	Amount per worker	\$18,000