



HONG KONG
RETAIL MANAGEMENT
ASSOCIATION

香港零售管理協會

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Ms. Mary So
Clerk to Bills Committee on Public Health and Municipal Services
(Amendment) Bill 2008
Legislative Council Secretariat
3/F Citibank Tower
3 Garden Road
Central, Hong Kong

(By fax 2509 0775)

Dear Ms. So,

Re: Public Health and Municipal Services (Amendment) Bill 2008

The Hong Kong Retail Management Association (“HKRMA”) is supportive of the Government’s introduction of the Public Health and Municipal Services (Amendment) Bill 2008 (the “Bill”) to better protect public health. However, we would like to point out a few areas in the Bill that need further consideration.

First, under the Bill, the Director of Food and Environmental Hygiene will be empowered to order that any food sold in the market be recalled, if he or she has “reasonable grounds” to believe that the order of recall, when it is made, is necessary to prevent or reduce the possibility of a danger to public health. This would provide the Government with wide authority, and we believe such authority should be closely monitored with appropriate checks and balances in place.

Second, the Bill proposes that any traders aggrieved by the Government’s order of recall may appeal to the Municipal Services Appeals Board (“MSAB”) within 14 days from the effective date of the order. We believe that the 14-day restriction is too short given the considerable time needed for investigation, e.g. liaison with manufacturers and suppliers, FEHD, laboratory tests, etc., and therefore, we suggest that affected traders should be given a period of 6 months to lodge an appeal.



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Third, a trader who suffers losses as a result of the order of recall will be compensated by the Government, only if the MSAB later varies or sets aside the order and the Director of Food and Environmental Hygiene has no reasonable grounds to make the order of recall at the time it is made. Such requirements would present a very high hurdle and make it very difficult, if not impossible, for affected traders to make a successful claim for compensation. We therefore suggest that affected traders should be entitled to compensation as long as the order is set aside by the MSAB, without having to prove that the Government has no reasonable grounds to make the order of recall.

We hope the Bills Committee will give due consideration to our concerns and suggestions above. We are committed to working closely with the Government in safeguarding food safety and public health.

Yours faithfully,



Philippe Giard
Chairman
Government Regulations Sub-Committee
Hong Kong Retail Management Association