

For Discussion
on 10 February 2009

**LegCo Panel on Food Safety and Environmental Hygiene
Review on Hawker Licensing Policy**

Purpose

At the meeting of the LegCo Panel on Food Safety and Environmental Hygiene held 10 June 2008, Members were briefed on the Administration's preliminary ideas and proposals on the review on hawker licensing policy. District Councils (DCs), hawker associations and relevant stakeholders were subsequently consulted on the proposals. This paper summarises the views received and seeks Members' views on the way forward.

Background

2. Street hawking has a long history in Hong Kong. It provides job opportunities, and customers may find a cheaper source of goods. However, it may also give rise to environmental hygiene problems, noise nuisance and obstruction to public passageways.

3. For many years, the Administration's policy has been to properly regulate the hawking activities of licensed hawkers and take enforcement action against illegal hawking. Since the early 1970's, the former Urban Council had stopped issuing new hawker licences under normal circumstances. Succession to and transfer of hawker licences already issued have also been subject to stringent restrictions, the purpose of which is to gradually reduce the number of hawkers by natural attrition.

4. Subsequently, taking into consideration that "Dai Pai Tong" (formally known as Fixed-Pitch (Cooked Food or Light Refreshment)) and itinerant hawkers were more likely to cause environmental hygiene problems, noise nuisance as well as obstruction to public passageways, a five-year

voluntary surrender scheme was introduced in 2002 to encourage “Dai Pai Tong” licensees and itinerant hawkers to surrender their licences voluntarily in exchange for a one-off ex-gratia payment, rental of a vacant stall in public markets/cooked food centres under concessionary terms, or becoming a fixed pitch (non-cooked food) hawker. The voluntary surrender scheme applicable to “Dai Pai Tongs” ended on 30 November 2007 with a total of 37 “Dai Pai Tong” hawker licences voluntarily surrendered. The scheme applicable to itinerant hawkers has been extended to 31 December 2009. As at 31 December 2008, a total of 413 itinerant hawkers had voluntarily surrendered their licences under the scheme.

5. As at 31 December 2008, the total number of Fixed-Pitch Hawker Licences (including “Dai Pai Tongs”) and Itinerant Hawker Licences in Hong Kong were 6 589 and 546 respectively.

Existing Hawker Licensing Policy

6. As mentioned in paragraph 3 above, the Administration has stopped issuing new hawker licences under normal circumstances since the early 1970’s. Succession to and transfer of all types of hawker licences already issued are also subject to stringent restrictions. A hawker licence will be cancelled upon the death of the licensee. “Succession” of a licence refers to the issuance of a new licence to the immediate family member of a deceased licensee. If a licensee, on grounds of, for example, old age or ill health, makes an application for his family member to replace him as the licensee, it will be regarded as a licence “transfer”. When processing an application for transfer, the Food and Environmental Hygiene Department (FEHD) will cancel the original licence held by the licensee and issue a new one to the transferee. The succession and transfer restrictions for different types of hawker licences are as follows -

- (a) A General Fixed-Pitch Hawker Licence may be transferred to or succeeded by an “immediate family member” of the licensee (i.e. parent, spouse, son or daughter).
- (b) A “Dai Pai Tong” Licence is also a type of Fixed-Pitch Hawker Licence, which, according to current arrangements, may only be transferred to or succeeded by the licensee’s spouse.

- (c) Succession to and transfer of Itinerant Hawker Licence are not allowed.

Review on Hawker Licensing Policy

7. As compared with the past, the number of hawkers has indeed reduced significantly and hawker control work has been effective. Recently, there are views from the community to retain and revitalise the hawking trade because of its traditional characteristics. As part of the consultative framework at the district level, DCs could effectively advise the Government on hawker licensing and management work in their districts having regard to the local situation and residents' aspirations. In view of these, the Administration considers it necessary to review the existing hawker licensing policy in order to be more responsive to public expectation and community needs. The Food and Health Bureau (FHB) and FEHD, therefore, reviewed the existing hawker licensing policy, including exploring the feasibility of re-issuing new hawker licences and relaxing the requirements for succession to and transfer of hawker licences without compromising environmental hygiene, as well as ways to strengthen the role of DCs in terms of hawker licensing and management work at district level. We consulted the LegCo Panel on Food Safety and Environmental Hygiene on our preliminary proposals in June 2008, and later consulted the 18 DCs, over 20 hawker associations and other relevant stakeholders. Views received during the consultation and our proposals are set out in the ensuing paragraphs.

Issuing New Hawker Licences

(i) Fixed-Pitch Hawker Licences

8. Since the Administration has not issued new hawker licences for many years, some pitches in open-air hawker bazaars (such as the Tung Choi Street Hawker Permitted Places) are left vacant as a result of relocation or voluntary surrender of licence by the licensees. We propose that provided the current number of fixed pitches remains unchanged, Fixed-Pitch Hawker Licences can be issued to new operators for trading in the vacant pitches, or to allow licensees of adjacent pitches to use these vacant pitches to expand their operating area while paying the relevant fees.

9. The majority of DCs supported the issue of licences to new operators provided the current number of fixed pitches remains unchanged. DCs also suggested that the vacant pitches should be allocated in a fair and open manner. In addition, appropriate licensing conditions should be imposed to ensure proper management of hawking operation and avoid subletting and environmental hygiene problems. They supported the idea of allowing fixed pitch hawker licensees in open-air bazaars to take up their adjacent vacant pitches in the back row to better utilise them. Some DC members considered that expanding the size of fixed pitches could better meet the operating needs of hawkers and facilitate management. A few DCs which had reservations over issuing new hawker licences considered that this would affect the business environment of markets and shops nearby and compromise environmental hygiene. Hawker associations had no objection in principle to issuing new licences to better utilise vacant fixed pitches, and they also supported allowing fixed pitch hawkers at the front row to take up the use of the adjacent vacant pitches in the back row.

10. DCs and hawker associations held different views on who should be issued with new licences and how. Most DCs which supported the issue of new licences had no strong view on who should be licensed. Some individual DC members suggested that priority be given to registered assistants who had been assisting hawker licensees to operate their stalls. Hawker associations considered that in relation to any vacant fixed pitch, the fixed pitch hawker operating in the adjacent pitch should first be invited to take it up. If the licensee had no intention to do so, existing registered assistants with experience in the hawking trade should be allowed to select the vacant pitch. Any vacant pitches left could be open to applications from members of the public. Some hawker associations proposed prescribing a ratio of vacant pitches for application by existing registered assistants and members of public.

11. Having considered the above views, we propose to give priority to fixed pitch hawkers at the front row in taking up adjacent vacant fixed pitches in the back row. This will not only provide larger operating area for licensees at the front row and allow better utilisation of the less attractive back row pitches, but will also enhance the vibrancy of hawker bazaars and help minimise illegal occupation of vacant pitches. If there are still vacant pitches after selection by front row fixed pitch hawkers, anyone interested in

the hawking trade will have an equal opportunity to select the vacant pitches by balloting in an open and fair manner. We consider this a fair and reasonable arrangement. Existing registered assistants may submit applications while other people will also have an equal opportunity to join the hawking trade.

12. When exploring the closure of individual public markets with consistently high vacancy rates, some affected market tenants have asked for relocation to on-street vacant hawker fixed pitches to continue business. It serves as an additional option to receiving ex-gratia payment and choosing to operate in vacant stalls in other markets, but will not increase the current number of fixed pitches. Since this suggestion can expedite the progress of market closure, we will actively follow up on its implementation.

(ii) Fixed-Pitch (Cooked Food or Light Refreshment) Hawker Licence

13. There are now only 28 on-street fixed-pitch (cooked food or light refreshment) i.e. “Dai Pai Tong” hawkers. They are mainly concentrated in Sham Shui Po and Central and Western Districts. Some of them prepare western light refreshments such as tea and coffee, and some others serve seafood and other Chinese dishes. Depending on the type of cooked food they prepare, mode of operation and locations, some “Dai Pai Tongs” have indeed created environmental hygiene problems, noise nuisance, as well as obstruction to public passageways. Others may have successfully blended in with their surroundings, providing special cooked food and are considered part of the local heritage that deserves preservation. We believe that the preservation or otherwise of “Dai Pai Tongs” should be handled with flexibility rather than rigidly.

14. We propose to consult the relevant DC when a “Dai Pai Tong” is to be closed down because of the old age or passing away of the licensee or other reasons. The DC can then advise whether that “Dai Pai Tong” should be allowed to continue to operate in situ, having regard to the specific circumstances of the district and residents’ aspirations. If the DC supports the continued operation of the “Dai Pai Tong” in situ, the Administration may then consider relaxing the succession and transfer requirements to align with that of other fixed pitch hawker licences so that the licence can also be succeeded by or transferred to the licensee’s “immediate family members”

other than the spouse, or issue new licences to other interested operators. DCs generally supported the above proposal. Accordingly, we plan to relax the succession and transfer requirements for existing Fixed-Pitch (Cooked Food or Light Refreshment) Hawker Licences. In the event a “Dai Pai Dong” closes down, we will decide whether to issue new licences to other interested operators for operation in situ with reference to DCs’ views. When processing applications for succession, transfer or issuing new licences for a “Dai Pai Dong”, we will also explore the room for relaxing the existing limit of setting two tables and eight stools in front of the stall having regard to objective factors such as stall location, and seek DCs’ views on it.

(iii) Itinerant Hawker Licences

15. Itinerant Hawker Licences are classified into three main categories, namely Itinerant Hawker Licences for selling wet and dry goods, Itinerant (Mobile Van) Hawker Licences and Itinerant (Frozen Confectionery) Hawker Licences.

16. Itinerant hawkers selling wet and dry goods usually gather at prime locations when in operation, and thus inevitably impede pedestrian flow with their trolleys and goods and bring about certain impact on environmental hygiene. We propose to maintain the existing policy of not issuing new Itinerant Hawker Licences for selling wet and dry goods, and not relaxing the current requirements for succession to and transfer of the Itinerant Hawker Licence. DCs had no objection to this proposal.

17. Hawker associations also raised no objection to the above proposal, but requested extension of the validity period of the voluntary surrender scheme for itinerant hawkers (paragraph 4 above) or even to make the scheme permanent. The voluntary surrender scheme has been extended to 31 December 2009 to enable itinerant hawkers to take into account the implication of the current review. If the existing policy of not issuing new Itinerant Hawker Licences is to be maintained, we propose to terminate the scheme upon its expiry on 31 December 2009 in order to encourage itinerant hawkers to voluntarily surrender their licences as soon as possible.

18. Holders of Itinerant (Frozen Confectionery) Hawker Licences (small ice cream vendors) usually sell frozen pre-packaged confectionery such as ice-cream, ice popsicles, soft drinks and other non-alcoholic

beverages at the entrance of parks, beaches and tourist spots. There are only 28 such licensed itinerant hawkers at present. Their mode of operation is different from that of other licensed itinerant hawkers. They usually ride motorcycles or bicycles to operate at different locations, hence providing convenience to visitors at remote areas without causing obstruction to public passageways. During consultation, most of the DCs and hawker associations supported issuing new Itinerant (Frozen Confectionery) Hawker Licences and had no strong view on the number of licences. Taking into account the market capacity, we propose to additionally issue not more than 30 new Itinerant (Frozen Confectionery) Hawker Licences initially to allow room for both new and existing operators. Upon annual renewal of licences, the Administration will, having regard to the latest situation, consider the need for imposing new conditions such as restricting their operation areas; and will review the need for adjusting the number of Itinerant (Frozen Confectionery) Hawker Licences from time to time.

19. Currently, there are 16 Itinerant (Mobile Van) Hawker Licence holders (ice cream vans) selling soft ice-cream from prepared mixture at different locations. Given the big size of these mobile ice-cream vans and that their engines must be kept running during operation, many opined that the Administration should carefully consider whether to issue new Itinerant (Mobile Van) Hawker Licences, particularly as they will cause street obstruction and affect road-side air quality. As there is no community support for issuing new mobile ice cream van licences, we propose to maintain the current arrangement. When technology development in future can solve the problem of prolonged running of engines during operation of these vans, the possibility of issuing new licence of this type may be further discussed.

Eligibility, Succession to and Transfer of Hawker Licences

20. The applicants of new hawker licences must be Hong Kong permanent residents and above the age of 18. The applicants and their immediate family members must not hold any other valid hawker licences.

21. As hawker licences should not be regarded as commodities available for free transfer or trading in the market, stringent requirements on succession to and transfer of the existing hawker licences are necessary. We propose that for all new licences, including those issued on account of

“succession” to or “transfer” of licences, they should not be allowed for further succession or transfer.. Hawker licensees are still required to renew their licences annually. If a licensee ceases operation, his / her pitch will then be allocated to other interested operators in an open and fair manner.

Open-air Hawker Bazaars

22. In recent years, members of the public have proposed, from time to time, the establishment of open-air bazaars rich in local characteristics at suitable sites. We are open-minded to such proposals and stand ready to provide, in collaboration with the relevant departments, appropriate assistance to the proponents if they have identified suitable sites with support of the local districts, and have satisfied the requirements on food safety and environmental hygiene. As to whether trading in open-air bazaars belongs to hawking activity for which a licence is required, it depends on the specific circumstances.

Role of DCs

23. In general, DCs welcomed the proposal to strengthen their role in hawker licensing and hawker bazaar management at the district level to ensure that hawker policy can meet different local needs. As suggested above, the Administration will consult relevant DCs on whether to allocate vacant hawker fixed pitches and issue licences for operating “Dai Pai Tong” in the future.

24. During the consultation, some DCs expressed concerns on environmental hygiene problems and matters relating to the daily management of hawking activities. The Administration will follow up on these suggestions appropriately.

Way Forward

25. Subject to Members’ views on the above policy direction, FEHD will formulate concrete proposals on the issue of new licences with regard to the number, location and type of vacant pitches in each district, and submit

them to the respective DCs for discussion within six months. Meanwhile, FEHD will also develop operational guidelines on practical arrangements including processing of applications and verification of eligibility.

Advice Sought

26. Members are invited to comment on the above proposals.

**Food and Health Bureau
Food and Environmental Hygiene Department
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