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Panel on Food Safety and Environmental Hygiene

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 14 April 2009**

Hawker licence fee and public market stall rental waiver

Purpose

This paper gives an account of the past discussion by the Panel on Food Safety and Environmental Hygiene (the Panel) on hawker licence fee and public market stall rental waiver.

Background

Policy on Hawker Licence Fee

2. The purpose of hawker licensing is to regulate hawking activities. The nature of a hawker licence is similar to that of a licence or permit for certain types of business, such as karaoke establishment permit, restaurant licence and amusement game centre licence. Hawker licence fee falls under the category of fees charged under the “user pays” principle, i.e. the Government recovers full costs from users for the provision of goods and services or implementation of regulatory schemes. Costs related to hawker management and law enforcement are not included.

Policy on Public Market Rental

3. The overall policy for public markets is to charge tenants according to the open market rental (OMR). The rentals of public markets are normally set according to the open auction prices. The upset auction prices of market stalls are determined with reference to the OMR as assessed by the Rating and Valuation Department (RVD). In assessing the rental value of market stalls, the RVD takes into account the general economic situation of Hong Kong, the actual conditions of individual markets and other relevant factors.

Past discussion

4. At the special meeting held on 18 December 2008, the Panel discussed with the Administration on reducing or waiving hawker licence fee and public market rental to help the trade tide over the present economic downturn. Deputations were also invited to give views on the matter.

5. The Administration advised that it had no plan to further reduce or waive hawker licence fee, as there had been no adjustment to the licence fee since 1998 and the Government was currently unable to achieve cost-recovery for licensing. The Administration also had no plan to further reduce or waive public market rental. In his Report No. 51 published in November 2008, the Director of Audit (D of Audit) pointed out that about 85% of the stall tenants were paying rentals lower than the OMR, and 48% of the stall tenants were paying rental at 60% or less of the OMR. As the rentals were lower than the OMR, the Government had to subsidise to a certain extent. In the 2007-2008 fiscal year, the Food and Environmental Hygiene Department (FEHD) subsidised \$160 million on market operation. The D of Audit also recommended that the Administration should put up for the Legislative Council (LegCo) Panel's consideration as soon as practicable a suitable and aligned rental adjustment mechanism.

Hawker licence fee

6. Members were of the view that the Administration should not use the "user pays" principle as an excuse not to waive hawker licence fee for one year. If the Administration could waive business registration fee for one year, the same should apply to waive hawker licence fee for one year, as both were Government fees and charges.

7. The Administration explained that the main purposes of business registration were to provide the Inland Revenue Department with information on businesses for it to create tax files and to enable the public to obtain information on businesses for reference. It was applicable to all businesses and did not aim at regulating individual types of business. Nevertheless, the purpose of hawker licensing was to regulate hawking activities. The nature of a hawker licence was similar to that of a licence or permit for certain types of business, such as karaoke establishment permit, restaurant licence and amusement game centre licence. As such, the hawker licence fee should not be compared to the business registration fee.

Public market rental

8. Hon Vincent FANG was of the view that the facts that about 85% of the stall tenants were paying rentals lower than the OMR and that 48% of the stall tenants were paying rental at 60% or less of the OMR should not be an excuse for the Administration not to reduce or waive public market rental. Mr FANG further pointed out that the fact that public markets had high vacancy rates was a testament that their rentals were considered not value-for-money. Hon Tommy CHEUNG also said that it was unreasonable for the Administration to charge tenants according to

OMR, as the design and management of public market were far from satisfactory to attract patrons.

9. Hon WONG Kwok-hing opined that although the D of Audit in his Report No. 51 recommended that the Administration should put up for LegCo Panel's consideration as soon as possible a suitable and aligned rental adjustment mechanism for public markets, it should not be made an excuse for the Administration not to immediately reduce or waive public market rental, as disparity in rentals for similar stalls had already existed for more than 10 years.

10. Hon WONG Yuk-man expressed dissatisfaction about the Administration's reluctance to help small traders, but would do otherwise for large enterprises.

11. In response to Hon KAM Nai-wai's enquiry about the financial implications in respect of the waiving of hawker licence fees and public market rentals for one year, the Administration advised that they were about \$300 million and \$30 million respectively. The Administration further advised that in 2007-2008, the income of FEHD from hawker licence fees cum fees for the allocation and use of fixed pitches, and public market rental was about \$36 million and \$348 million respectively.

Motion

12. A motion moved by Hon Vincent FANG and Hon WONG Kwok-hing, as amended by Hon KAM Nai-wai, urging the Government to waive hawker licence fee for one year and public market rental for two quarters was carried at the meeting.

Recent development

13. In his 2009-2010 Budget, the Financial Secretary has decided to provide a 20% rental reduction for most government properties and short term tenancies of government for three months and to extend a freeze on government fees and charges related to people's livelihood for one year until 31 March 2010.

Relevant papers

14. Members are invited to access LegCo website (<http://www.legco.gov.hk>) for details of the relevant paper and minutes of the meeting.