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Panel on Health Services

**Background brief prepared by the Legislative Council Secretariat
for the meeting on 13 February 2012**

Tobacco control

Purpose

This paper highlights the major concerns of Legislative Council ("LegCo") Members and the Panel on Health Services ("the Panel") on the subject of tobacco control in the Fourth LegCo.

Background

2. According to the Administration, tobacco dependence is the single most important preventable risk factor responsible for main causes of death and chronic diseases, including cancers and cardiovascular diseases. The aims of the Government's tobacco control policy are to discourage smoking, contain the proliferation of tobacco use and protect the public from second-hand smoke as far as possible. To achieve this, the Administration adopts a step-by-step and multi-pronged approach comprising legislation, taxation, publicity, education, enforcement and smoking cessation programmes. A summary of the key control measures taken by the Administration since 2001 are set out in **Appendix I**.

3. The Smoking (Public Health) Ordinance (Cap. 371) ("the Ordinance") provides a legal framework on tobacco control for restricting the use, sale and promotion of tobacco products in Hong Kong. The Ordinance was amended by the Smoking (Public Health) (Amendment) Ordinance 2006 in October 2006 to, inter alia, expand statutory no smoking areas ("NSAs"). Since January 2007, NSAs have been extended to include all indoor workplace and public places, many outdoor leisure grounds and public transport interchanges ("PTIs").

The Fixed Penalty (Smoking Offences) Ordinance (Cap. 600), which was enacted in July 2008 and came into operation in July 2009, prescribes that any person who smokes in a NSA is liable to a fixed penalty of \$1,500.

4. As a measure to further protect public health from the harmful effects of tobacco, the Financial Secretary increased the tobacco duty with effect from 23 February 2011 by 41.5% (i.e. by \$0.5 per stick).

Members' views and concerns

5. The major views and concerns expressed by LegCo Members at various platforms, including the Bills Committee on the Fixed Penalty (Smoking Offences) Bill ("the Bills Committee"), the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011 ("the Subcommittee") and the Panel, are summarized in the ensuing paragraphs.

Designation of PTIs as NSAs

6. On designating NSAs at open-air PTIs, members requested the Administration to have a clear delineation of NSAs in order to avoid disputes. They considered it inadequate to merely post on the website of Tobacco Control Office ("TCO") all plans of the designated PTIs. There was also a suggestion of using a different colour to road mark the boundaries of NSAs at PTIs.

7. The Administration advised that the idea of road marking to delineate NSAs at PTIs was dropped after consultation with the Transport Department and the public transport operators since adding another road marking to the existing ones in PTIs would cause confusion to motorists, passengers and pedestrians. However, conspicuous no-smoking signs would be erected at the boarding and waiting areas of open-air PTIs, as well as the areas that passengers would pass by in the course of accessing and interchanging between different modes of public transport as statutory NSAs. TCO would also carry out publicity activities to inform the public of the implementation of smoking ban in open-air PTIs and to promote compliance.

8. Notwithstanding the Administration's response, there was a view that road marking to delineate NSAs at PTIs should at least be made to the pedestrian areas.

Enforcement officers

9. During the scrutiny of the Fixed Penalty (Smoking Offences) Bill by the Bills Committee, members noted that under the fixed penalty system ("FPS") for smoking offence, Tobacco Control Inspectors ("TCIs") of TCO under the Department of Health ("DH") were the leading enforcement agency and were empowered to issue fixed penalty notices ("FPNs"). Members raised concern on the adequacy of manpower of TCO for enforcement of the statutory smoking ban. There was a view that Food and Environmental Hygiene Department ("FEHD") inspectors should be empowered to issue FPNs for smoking offence which took place in the indoor area of food premises.

10. The Administration advised that it would not be practicable to do so as inspection to food premises by FEHD inspectors mainly focused on the kitchen and related food preparation areas, rather than areas for serving patrons. FEHD inspectors were not stationed on the food premises, but only carried out inspection to the premises on a regular basis ranging from once every four to 20 weeks in accordance with the track record and risk classification of the premises.

11. The Administration further advised that public officers who were the venue managers involving the day-to-day management of public venues would be authorized to take enforcement actions in the designated NSAs under their respective management. Other enforcement departments included DH, FEHD, Leisure and Cultural Services Department ("LCSD") and Housing Department.

TCO complaint hotline

12. Concern was also raised on the handling of complaints received. As advised by the Administration, TCO would follow up all complaints about smoking offence received through TCO complaint hotline, and conduct inspections for most cases (over 70% of all complaints). In view of the short duration of the smoking act, it was impracticable for TCIs to arrive at the scene immediately when complaint was received. Instead, TCO conducted unannounced inspections to statutory no-smoking venues and targeted at black-spots with repeated complaints.

13. The Administration further advised that the Government's Integrated Call Centre ("ICC") had manned the TCO hotline since 1 February 2007, with operator service available daily from 9:00 am to 10:00 pm and calls diverted to a voicemail box after 10:00 pm. Since October 2007, operator service had become available round-the-clock. The performance target was to answer 80% of the calls within 12 seconds. All complaints received were referred to TCIs

in charge of the district immediately after the calls and unannounced inspections would then be arranged by TCO.

14. To further improve the efficiency in referral of complaints, the Administration would explore the feasibility of ICC referring a complaint relating to venue under the management of government departments to both TCO and the relevant venue manager concerned, instead of referring it to TCO alone, immediately after the complaint call was received.

Smoking cessation services

15. In view of the growing prevalence of smoking among the youth and women, members were concerned about the effectiveness of the public education and publicity against smoking. They urged the Administration to allocate more resources on education and publicity to enhance the public awareness on the harmful effects of smoking as well as improving the smoking cessation service.

16. The Administration responded that TCO, the Hong Kong Council on Smoking and Health ("COSH"), DH and non-government organizations had made joint effort on tobacco control. TCO was responsible for health promotion and smoking cessation programmes, with the aim to educate the general public on the harmfulness of smoking, prevent people especially the younger generation from picking up smoking habit, and encourage smokers to quit smoking. With an annual funding from DH, COSH carried out publicity campaigns to encourage smokers to quit smoking and garner public support for a smoking-free Hong Kong. A smoking cessation hotline providing general enquiry and counselling on smoking cessation was provided by DH. DH also coordinated the provision of smoking cessation services in Hong Kong by referring clients seeking assistance to smoking cessation clinics operated by DH, the Hospital Authority ("HA") and non-government organizations.

17. In response to members' concern about the adequacy of smoking cessation services and the service effectiveness, the Administration advised that DH operated five smoking cessation clinics (four serving civil servants and one for the public) providing individual and group counselling for smokers, prescription of Nicotine Replacement Therapy ("NRT") or other non-NRT medications to manage nicotine dependence. The total enrolment of these smoking cessation clinics was around 560 and nearly 600 in 2009 and 2010 respectively. The smoking cessation rate one-year after treatment was 29.2% in 2009 which was comparable to the experience of overseas countries. HA ran three full-time and 31 part-time smoking cessation clinics for clients referred either by DH's smoking cessation hotline or by doctors in public hospitals and clinics. Where

clinically necessary according to protocol, clients attending HA smoking cessation clinics were prescribed NRT drugs free-of-charge since August 2010. HA smoking cessation clinics handled over 4 000 cases and the smoking cessation rate one-year after treatment was 43% in 2010.

18. Members noted from the Administration that Tung Wah Group of Hospitals was commissioned by DH to provide community-based smoking cessation programmes covering a comprehensive range of activities and services including smoking cessation service, education for the public, training for healthcare professionals and research projects. The programme started in January 2009, with a funding of \$5 million and expanded to \$11 million in 2010-2011.

Tobacco duty increase with effect from 23 February 2011

19. While some members of the Subcommittee supported the tobacco duty increase, some other members questioned the justification for raising the tobacco duty and criticized the Administration for failing to seriously examine the social and economic impacts before introducing the duty increase. They were also worried that smokers would switch to consume illicit cigarettes, making the smuggling activities more rampant. They urged the Administration to deploy sufficient manpower and resources to enhance enforcement against illicit cigarette activities.

20. According to the Administration, it was well established internationally and empirically that tobacco price had a strong inverse correlation with tobacco consumption. The cigarette price and tobacco duty rate of Hong Kong were on the low side when compared with many other advanced economies of similar level of economic development (by per capita GDP). Illicit cigarette activities had reduced in scale and magnitude as a result of the robust enforcement actions taken by the Customs and Excise Department.

Relevant questions raised by Members at Council meetings

21. At the Council meeting of 3 November 2010, a written question was raised as to whether the Administration had conducted any study on further extending NSAs to include elevated outdoor covered walkways and footbridges. As advised by the Administration, under section 3(1) and Part 1 of Schedule 2 to the Ordinance, any indoor area in a workplace or public place and any escalator was a designated NSA. Any elevated outdoor covered walkways or footbridges which met the definition of "indoor" stated in the Ordinance (i.e. having a roof and enclosed at least up to 50% of the total area of all sides) were

statutory NSAs where the smoking ban was equally applicable. There were a number of covered footbridges which met the definition of "indoor" stated in the Ordinance and thus belonged to NSA.

22. At the Council meeting of 16 February 2011, a Member raised a written question about the tobacco control policies, enquiring, among others, whether the Government had any established policy on tobacco duty and whether the Administration would reconsider setting up smoking rooms to reduce the impact of second-hand smoking on non-smokers.

23. The Administration advised that the Government had no established policy to increase the rate of tobacco duty to a certain percentage of the retail price. The Financial Secretary would review the necessity of adjusting tobacco duty in the annual Budget exercise after taking into consideration factors such as public finance, economic conditions and relevant tobacco control policies. In considering whether to increase the tobacco duty, apart from the objective of implementing tobacco control by way of taxation, factors such as the affordability of the public and whether it would give rise to more smuggling activities and illegal sale of illicit cigarettes on the streets would also be taken into account in order to strike an appropriate balance.

24. As regards the suggestion of setting up smoking rooms, the Administration remained of the view that it was not practicable since its establishment entailed significant technical and operation difficulties as revealed by the feasibility study on smoking rooms and the experience of overseas countries. There was currently no conclusive evidence to prove that smoking rooms could effectively segregate smokers from non-smokers. The Administration considered that the most effective way to reduce the exposure of the public to second-hand smoke was to reduce the overall smoking population through assisting smokers to quit smoking and preventing young people from picking up the smoking habit. Various smoking cessation services had been provided by DH and HA, and community-based smoking cessation programmes were launched in collaboration with non-government organizations.

25. In another written question raised at the Council meeting of 26 October 2011, concern was raised about the substantial increase in the number of young smokers. According to the two surveys conducted by the Census and Statistics Department from October 2010 to December 2010 and from November 2009 to February 2010 respectively, the proportion of persons who had a daily smoking habit among all persons aged 15 and above dropped from 12.0% (698 700) to 11.1% (657 000). There was also a drop in smoking prevalence for all age groups, except the age groups of age 60 or above and age 15 to 19. The Administration responded that the increase in smoking prevalence in the age

group of 15 to 19 from 1.8% (7 700) to 2.5% (10 800) might not reflect the actual situation due to the small statistical base. It advised that the consumption of cigarettes among this group of daily smokers dropped from 10.8 sticks per day in 2009-2010 to 8.6 sticks per day in 2010. According to a survey conducted by the School of Public Health of the University of Hong Kong, there was a sustained drop in the proportion of smokers among Form 1 to Form 5 students, from 9.6% in 2003-2004 to 6.9% in 2007-2008 and dropping further to 3.4% in 2010-2011.

26. The Administration further advised that to strengthen the smoking cessation services for the youth, funding was provided to the School of Nursing of the University of Hong Kong for launching a counselling service to young smokers aged 18 to 25 over the phone in June 2011. DH also worked with Po Leung Kuk and the Life Education Activity Programme to organize health promotional activities at schools for promotion of a smoke-free culture.

Latest developments

27. At the Panel meeting on 13 February 2012, the Administration will update the Panel on the progress of tobacco control.

Relevant papers

28. A list of the relevant papers on LegCo website is in **Appendix II**.

Summary of key control measures taken by the Administration since 2001

Date	Tobacco Control Measures
2001	<p>Established the Tobacco Control Office ("TCO") in the Department of Health ("DH") to co-ordinate the implementation of the tobacco control legislation and public education and smoking cessation promotion.</p> <p>Increased duty for tobacco products by 5%</p>
June 2001	<p>Issued the Consultation Document on Proposed Legislative Amendments to the Smoking (Public Health) Ordinance.</p>
April 2005	<p>Introduced the Smoking (Public Health) (Amendment) Bill 2005 into the Legislative Council.</p>
2005	<p>China ratified the Framework Convention on Tobacco Control ("FCTC") of the World Health Organization ("WHO").</p>
2006	<p>WHO FCTC came into effect and its application extended to Hong Kong.</p>
19 October 2006	<p>The Smoking (Public Health) (Amendment) Ordinance 2006 was enacted by the Legislative Council.</p>
October 2006	<p>Appointed and vested the inspectors of TCO with inspection and enforcement authority under the Ordinance.</p>
1 January 2007	<p>Implemented smoking ban at all indoor workplace and public places (including restaurants, karaokes, amusement game centres, malls, markets, residential care home, etc. except six types of qualified establishments), schools, universities, child care centres, hospitals and certain outdoor leisure areas (including public leisure parks, bathing beaches, swimming pools and stadia under the management of the Leisure and Cultural Services Department).</p>
27 October 2007	<p>Effectuated new graphic warning and packaging restrictions on tobacco products.</p>
1 November 2007	<p>Withdraw the exemption for display of tobacco advertisements at retail dealers with two employees or less.</p>

Date	Tobacco Control Measures
February 2008	Introduced the Fixed Penalty (Smoking Offences) Bill for a fixed penalty system for smoking offences into the Legislative Council.
July 2008	The Fixed Penalty (Smoking Offences) Ordinance was enacted by the Legislative Council.
January 2009	Commenced a three-year pilot of community-based smoking cessation services in collaboration with Tung Wah Group of Hospitals.
25 February 2009	Increased the duty for tobacco products by 50% as announced in the 2009-2010 Budget Speech.
1 July 2009	Extended smoking ban to the six types of qualified establishment namely bars, clubs, nightclubs, bathhouses, massage parlours, and mahjong and tinkau parlours hitherto exempted from the ban.
1 September 2009	Implemented the fixed penalty system for smoking offences in accordance with the Fixed Penalty (Smoking Offences) Ordinance.
1 September 2009	Extended smoking ban to 48 covered public transport interchanges and bus termini (or PTIs for short) with superstructures.
1 November 2009	Withdrew the exemption for display of tobacco advertisement at licensed hawker stalls.
April 2010	Commenced a one-year pilot programme of smoking cessation services using acupuncture in collaboration with Pok Oi Hospital.
1 August 2010	Abolished the duty-free concessions on tobacco products for incoming passengers at border entry (except for small quantity for self-consumption, no more than 19 sticks of cigarettes in any one packet; or no more than one stick/25 grams of cigar; or no more than 25 grams of other manufactured tobacco).
1 December 2010	Extended smoking ban to some 130 open-air PTIs.
23 February 2011	Increased the duty for tobacco products by 41.5% as announced in the 2011-2012 Budget Speech.

Note: Information extracted from the Administration's paper entitled "Tobacco control and tobacco duty increase" (LC Paper No. CB(1)1819/10-11(02)).

**Relevant papers on
Tobacco control**

Committee	Date of meeting	Paper
Bills Committee on Fixed Penalty (Smoking Offences) Bill	--	Report of the Bills Committee on Fixed Penalty (Smoking Offences) Bill to House Committee on 13 June 2008
Panel on Health Services	20.4.2009 (Item IV and V)	Agenda Minutes CB(2)1783/08-09(01) CB(2)1876/08-09(01)
Panel on Health Services	12.4.2010 (Item IV)	Agenda Minutes
Legislative Council	3.11.2010	Official Record of Proceeding (Question 10)
Legislative Council	16.2.2011	Official Record of Proceeding (Question 8)
Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011	--	Report of the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011 to House Committee on 15 April 2011
Legislative Council	26.10.2011	Official Record of Proceeding (Question 8)