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**Panel on Food Safety and Environmental Hygiene**

**Background brief prepared by the Legislative Council Secretariat  
for the meeting on 14 March 2017**

**Public market stall rentals**

**Purpose**

This paper summarizes the major views and concerns of members of the Subcommittee on Issues Relating to Public Markets ("the Subcommittee") formed under the Panel on Food Safety and Environmental Hygiene ("the Panel") in the Fifth Legislative Council ("LegCo") on public market stall rentals.

**Background**

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

3. In 1998, due to the then poor state of the economy, the two former Municipal Councils decided to reduce public market rentals across-the-board by 30%. Public market stall rentals have since been frozen at the reduced level. The Administration has subsequently put forward to the Panel three different proposals on the public market rental adjustment mechanism for discussion in 2009, 2010 and 2013 respectively. When the Panel was consulted on the subject in 2013, members opined that the Administration should conduct a comprehensive review covering the policy and usage of public markets and

improve their operating environment before considering the new rental adjustment mechanism. In light of members' concern, the Administration commissioned a consultant to put forward proposals for improving the operating environment of public markets. Taking into consideration the findings of the consultancy study, the Administration agreed to take forward proposals for improving the operating environment of public markets. However, it was also considered necessary to identify a reasonable rental adjustment mechanism that enabled the rent of public market stalls to catch up with rents of broadly comparable stalls, in particular other stalls in public markets which were allocated through open bidding in the previous few years.

4. At the Subcommittee meeting on 29 June 2015, the Administration briefed members on its latest position on matters related to public market stall rentals. The Administration advised that it would re-examine the rental adjustment mechanism in the following three aspects: (a) the concept of OMR; (b) the payment of rates and air-conditioning charge; and (c) the correlation between the level of market rentals and the prices of goods sold in markets. To allow sufficient time for deliberating the rental adjustment mechanism, the Administration decided to continue to freeze the public market rentals until 30 June 2017.

### **Members' concerns**

5. The major views and concerns of members of the Subcommittee are summarized below.

#### Basis for rental adjustment

6. In response to members' query about the validity and appropriateness of using OMR as the basis for rental adjustment, the Administration advised that OMR for public markets was assessed by RVD, with reference to the auction results of similar stalls in the same market and other markets. Other factors that were taken into consideration included the trade permitted for operation, the size and layout of the stalls, the location of the stalls within the market, the customer flow and the location of the market. For market stalls, there were restrictions on the permitted trades. Such restrictions had also been taken into account in the assessment of OMR.

#### Payment of rates and air-conditioning charges

7. Noting that the Food and Environmental Hygiene Department ("FEHD") currently paid rates on behalf of public market stall tenants in the territory, some members urged the Administration to continue this practice so as to support

small business operations in public markets. The Administration pointed out that the old tenancy agreements had stipulated that tenants were responsible for payment of rental as well as all the rates, taxes, other charges, etc., in respect of the stalls. FEHD had, however, paid rates on behalf of the stall tenants all along and had not recovered the rates from them. The Director of Audit had recommended that the Administration should explore recovering the rates payable by the tenants. This requirement was in line with the "user pays" principle adopted by the Administration in other public properties. The Administration would discuss with RVD rates assessment of public market stalls, with a view to identifying a way forward that would balance the interests of the tenants and safeguarding the prudent use of public money.

8. Some members were of the view that market stall operators should not be required to pay the air-conditioning charges for common areas in public markets such as the passageways. There was a suggestion that air-conditioning charges attributable to public areas of markets should be borne by the Government and tenants should only pay charges on the basis of the actual size of their stall areas. The Administration was urged to review the existing air-conditioning charging arrangement.

9. According to the Administration, the high capital costs of retrofitting air-conditioning facilities were borne entirely by the Government. Unlike landlords in private commercial venues, the Government did not recover the capital costs of retrofitting air-conditioning facilities through rental adjustments. Since tenants in public markets were commercial operators, further Government subsidy in the form of air-conditioning charges might give rise to unfair competition between stalls in public markets and similar retail operators in private commercial retail premises, especially those in areas nearby. The proposal to exclude public areas of markets from the amount of air-conditioning charges payable by tenants would deviate from the existing practice applicable to all other Government rental properties. Since public areas were integral parts of the market trading environment and were used by the patrons of the stalls, the Administration considered it reasonable for tenants to pay for the relevant air-conditioning charges.

#### Correlation between rental levels and price levels

10. Some members were of the view that as public markets could serve the function of providing fresh food for the general public at affordable prices, the Administration should view the provision of public markets as public services and subsidize the operation of market stalls.

11. The Administration stressed that allocation of stalls was by open auction without any means testing. Similarly, no means testing was conducted when

tenancy in public markets were allocated to displaced hawkers and tenants re-sited from other public markets. Hence, there should not be any systemic correlation between tenancy and socio-economic status of the tenants. This apart, as the Government had no control over prices of the foods sold at public markets, it would not be realistic to expect that public markets could take on the function of stabilizing the prices of foods. Nevertheless, the Administration would consider this factor further, with a view to facilitating the formulation of a fair and reasonable rental adjustment mechanism.

### **Recent development**

12. The Administration will brief members on its proposed way forward for the public market rental adjustment mechanism at the Panel meeting on 14 March 2017.

### **Relevant papers**

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

Council Business Division 2  
Legislative Council Secretariat  
10 March 2017

## Appendix

### Relevant papers on public market stall rentals

Committee	Date of meeting	Paper
Subcommittee on Issues Relating to Public Markets	29.6.2015 (Item II)	<a href="#">Agenda</a> <a href="#">Minutes</a>
	25.9.2015*	<a href="#">Report of the Subcommittee on Issues Relating to Public Markets (LC Paper No. CB(2)2142/14-15(01))</a>

\* Issue date

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