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2 June 2017

Clerk to Panel on Manpower
Legislative Council Secretariat
Legislative Council Complex
1 Legislative Council Road
Central, Hong Kong
(Fax: 2185 7845)

By Post and By Fax

Dear Sir/Madam,

Standard Working Hours

Thank you for inviting views on the report of the Standard Working Hours Committee for the coming meeting of the Panel on Manpower on 20 June 2017, the Employers' Federation of Hong Kong would like to elaborate here our detailed comments on the subject.

As reiterated in previous meetings and submissions to the Standard Working Hours Committee ("the Committee"), the Federation strongly opposes the introduction of Standard Working Hours (SWH), in any scope or condition, in Hong Kong, with its ineffectiveness in shortening working hours and low degree of practicability. It will only create lose-lose outcomes to everyone's detriment. Furthermore, with indicators substantiating the predictions of a contraction in the Hong Kong economy and business activity, we do not wish to see any job losses or even business closures due to the imposition of Standard Working Hours.

It is worth pointing out that regulating working hours through the introduction of Standard Working Hours is not an optimal choice for employees either, as revealed from the Household Survey commissioned by the Standard Working Hours Committee in 2015.

Working long hours is an issue in which socio-economic and cultural characteristics play a dominant role. Many employees work long hours for their own reasons e.g. to make more money, achieve career goals, impress their bosses, personal work habits, etc. 44% of labour union members of the Opinion Survey initiated by the Committee expressed willingness to work more if there were appropriate compensation arrangements. In other words, income becomes a more important consideration for employees when weighing whether longer working hours would be accepted. According to the Policy Study Report on Standard Working

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Hours, over 75% of employees working overtime without compensation are higher-skilled workers i.e. managers, administrators and professionals working in high value-added service sectors. The Study on the Working Hours Situation in Hong Kong commissioned by Standard Working Hours Committee in 2015 echoes these findings. Their remuneration packages basically reflect their higher accountability and responsibilities, which can translate to work beyond contractual working hours. On the other hand, with the Statutory Minimum Wage in place, lower-paid employees are protected with a minimum hourly wage in Hong Kong, currently at HK\$34.5 per hour for every hour worked, and no one has to work a single hour uncompensated at the min wage at the very least.

It is extremely difficult to regulate working hours in a service-oriented economy such as Hong Kong. Our retail and catering services remain competitive and successful and are world renowned amongst tourists and visitors for their long and flexible operation hours. It is to everyone's loss by ruining this hard-earned reputation by imposing rigidity on operations. In addition, each industry or position has its own work pattern. It is easy to define the working hours of a bus driver, but it will be extremely difficult to trace the working hours of a sales person. Those in the financial services sector, for example, will have to work around the clock when they are working on special projects, such as Initial Public Offerings. Even junior employees access company emails or perform research relating to their work on the web while at home, on the bus or waiting for friends. Many do so while on vacation. Will these hours count towards standard working hours? It is thus very difficult to strike a standard working hours regime that can universally apply to all industries and positions.

The Federation also does not see the practicability of legislating standard working hours on specific industries. Doing so will only further distort the labour market (i.e. industries without standard working hours will be less attractive and thus less competitive in recruiting employees) and create additional polarisation in our community. Equally, exemptions as applied when Standard Working Hours were introduced in other regimes, prove to create ambiguity and disputes, no matter how explicit the definition of legal terms is.

Without any success in shortening working hours, a Standard Working Hours Policy will only increase the costs to employers and ultimately consumers, and in some cases reduce the take-home pay of employees. With staff costs increasing without a proportionate enhancement of productivity, the labour market will only be adversely affected and thus pose a negative impact on the competitiveness of Hong Kong, which then eventually leads to pay cuts and job losses.

Jeopardise employee relations

In a knowledge-based economy like Hong Kong, output and deliverables of most workers and employees are measured by quality and results rather than the time spent at the place of work. Against this background, most employers adopt a more lenient approach in managing how employees work as long as tasks assigned are accomplished (including leniency for being away from their desks, making personal calls and sending personal emails/text messages, using social media and even leaving the office to buy branded coffee). Regulating working hours will only push employers to adopt a more stringent approach in measuring the productivity and time spent at their desks of employees concerned, i.e. utilisation of hours of work. Rigid reporting and auditing systems will also have to be established in order to comply with the law.

Worse, employers may become more conservative in engaging full-time employees in order to better manage business costs. With higher mobility and less commitment from a larger pool of part-time employees, the existing permanent employees will have to bear heavier responsibilities. And their earnings might be reduced even if they opt for taking a second or third job due to the additional travel and time costs incurred as their principal employer stops offering overtime work. This works against nearly 70% of responding employees in the Study on the Working Hours Situation in Hong Kong commissioned by the Committee who considered their current total working hours “too long”. In addition, in view of the different degrees of engagement, there is naturally different treatment between full-time and part-time employees, in terms of career path, training and development opportunities, etc. Employee relations and engagement will be negatively affected as a result, to the detriment of our society.

Inflationary effect on prices

Implementation of Standard Working Hours will have a more far-reaching and extensive impact on the cost of doing business in Hong Kong. For industries such as estate management and cleaning services, around 80% of operating costs are wages. It is natural for business, if possible, to mitigate such extra cost by passing it to consumers, which directly push up our cost of living. As a result, the real wage increase for employees may fall short of expected levels estimated before the implementation of the policy.

Decline in productivity and flexibility

Hong Kong is famous for its business flexibility, which is a key attraction for foreign investors and customers to spend and invest locally and help grow Hong Kong's economy. The implementation of SWH will only add rigidity to working hours, leading to reduced flexibility of business operations, higher costs and lower standards of service thus discouraging investment and eroding the competitiveness of Hong Kong.

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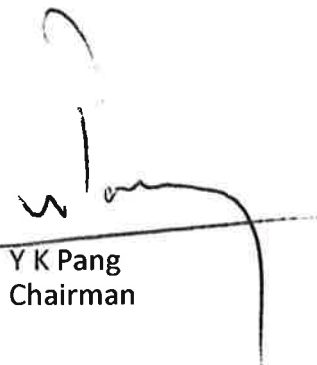
Over 98% of business establishments in Hong Kong are SMEs. Many are now struggling to make ends meet during this period of global economic uncertainty. Without sufficient market power, they are unable to pass the increased cost associated with Standard Working Hours to their customers. Some SMEs, without any alternative, may opt to close their businesses leading to job losses.

Hong Kong works well under the free market principle. Employment relationships can be established and terminated easily as long as mutual agreement has been reached on the related terms and conditions. As a public advocate for good employment practices, the Federation supports mandatorily requiring employers and employees to enter a written employment contract with details of working hour arrangements being explicitly spelled out. Such an approach is consistent with the views of 93.7% of employees surveyed in the Study commissioned by the Standard Working Hours Committee.

We want to stress that regulation of working hours, in whatsoever form, will inevitably pose extra administrative and financial burden to employers. Small employers, in particular, will find difficulties in drafting the terms and conditions of working hour arrangements (i.e. treatment of rest break, standby, etc.). Worst of all, all existing employment contracts have to be re-negotiated and re-signed. A report and track system has to be established at the same time to ensure the compliance of the arrangement. We thus strongly urge the Government to allow sufficient lead time for transitional arrangements, prior to strict enforcement.

The Federation has no dispute that employers have an important role to play to foster a healthier, work-life integration for their employees. We believe, however, that Standard Working Hours legislation will only push us to the opposite end.

Yours sincerely,



Y K Pang
Chairman