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Panel on Food Safety and Environmental Hygiene

Subcommittee on Issues Relating to Public Markets

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 10 July 2018**

Issues relating to the Market Modernization Programme

Purpose

This paper provides background information on issues relating to the Market Modernization Programme ("MMP") and summarizes the major views and concerns expressed by members of the Panel on Food Safety and Environmental Hygiene ("the Panel") and the Subcommittee on Issues Relating to Public Markets ("the Subcommittee") on the subject in the Sixth Legislative Council ("LegCo").

Background

2. According to the Administration, public markets were provided by the two former Municipal Councils ("MCs") in early years for resiting hawkers with a view to improving street hygiene and alleviating street obstruction. To pursue this objective, the positioning and functions of public markets as well as market layout and stall design were to a large extent developed in the form of bazaars, while concessionary rental arrangements were made to encourage hawkers to move into public markets. Since the late 1990s, as the number of licensed hawkers has decreased significantly, the main positioning and functions of public markets as a means to resiting hawkers and supporting the hawker policy were no longer valid. The design and layout of newly built public markets have evolved to provide bigger stalls and wider passageways. Following the dissolution of the former MCs on 1 January 2000, the Food and Environmental Hygiene Department ("FEHD") has taken over the responsibility

for managing public markets. FEHD is currently managing 99 public markets¹ (over 60% of them were built before 1990s) but many of them are now suffering from lackluster performance and inactive operation and can hardly bring reasonable economic and social benefits commensurate to the land, capital and recurrent resources that have been invested, particularly as they usually occupy prime, strategic sites in urban areas and new town centres. In the Administration's view, the current problem is the result of a complex host of hardware and management issues and historical legacies in play over the past decades.

3. In the 2018-2019 Budget Speech, the Financial Secretary announced that \$2 billion would be earmarked for implementing MMP over the next 10 years as a pledge to improve the operating environment of existing public markets managed by FEHD.

Members' major views and concerns

4. Members' major views and concerns on the subject are summarized in the ensuing paragraphs.

Project Scope, funding and implementation of MMP

5. The Panel had discussed with the Administration its proposal of retrofitting air-conditioning ("A/C") system at Tai Wai Market at the Panel meeting on 13 March 2018, and was advised that the installation works would cost about \$100 million. As such, some Members had queried whether the \$2 billion earmarked for MMP would be sufficient for improving the operating environment of all existing public markets under the management of FEHD. Members were of the view that the Administration should have a rough estimation of the funding to be spent on different types of works under MMP. At its meeting on 10 April 2018, the Subcommittee passed a motion urging the Administration to introduce a "dedicated-funds-for-dedicated-uses" mechanism with injection of adequate capital to provide the Government with sufficient resources to take forward MMP and building new public markets.²

6. The Administration advised that the funding earmarked for MMP might be deployed flexibly in the 10-year period to cover various types of hardware improvement projects of public markets managed by FEHD. These projects might be generally categorized into the following types: (a) fundamental

¹ The 99 public markets managed by the FEHD includes 35 wet markets, 39 wet markets and cooked food centres, as well as 25 cooked food markets.

² For wording of the motion, please refer to **Appendix I (Motion 1)**. As for the Administration's response, please refer to LC Paper No. CB(2)1572/17-18(01)

overhaul; (b) retrofitting A/C systems and other improvements; and (c) refurbishment and minor upgrading works. The financial commitments for building new public markets would be dealt with separately. The project scope might include retrofitting of A/C systems, re-design and re-zoning of stalls, re-configuring the layout, drainage improvement, upgrading works for fire services installations, electricity supply, toilet facilities, ventilation, lighting, signage, replacement of floor tiles, provision of barrier free access, façade and external wall decoration, lifts and escalators, etc. as appropriate. The Administration stressed that the funding earmarked for MMP would provide flexibility for taking forward improvement projects in an efficient and effective manner. The Administration would not rule out further funding support for MMP if a clear momentum had been generated to bring more existing public markets into such a mainstream modernization programme in a cost-effective manner to benefit the community.

7. Some Members suggested that a strategic analysis of the existing public markets would provide a systematic means for the Administration to identify targeted solutions for individual public markets. There was also a suggestion that the Administration should consider in-situ redevelopment of public markets instead of fundamental overhaul, where appropriate, in order to achieve greater cost-effectiveness and optimize the use of land resources in line with the "single site, multiple use" principle promulgated by the Administration. Members had also expressed concern about the time taken to take forward an improvement project at public market from initial conception to final completion and had requested the Administration to improve its efficiency in taking forward improvement projects under MMP.

8. According to the Administration, a dedicated team had been set up in FEHD to conduct a comprehensive review of public markets and formulate concrete and effective measures to improve their facilities, management and operating environment. The Administration would identify candidates for projects of different scales under MMP in a holistic manner. Public markets would be selected with regard to their geographical location and distribution, condition of facilities, business viability, community needs and tenants' readiness. While cost-effectiveness was an important consideration, other factors, such as the presence of other co-located facilities had to be taken into account.

Provision of A/C systems in public markets

9. When the Panel discussed the Administration's proposal of retrofitting A/C system at Tai Wai Market, some Members suggested that the Administration should consider lowering the threshold of tenants' support required for the retrofitting of A/C systems in public markets (e.g. from the

existing 80% to 70%). The Administration advised that it considered appropriate to take forward in public markets A/C retrofitting projects with the majority support of stall tenants. By setting the threshold at 80%, it could strike an appropriate balance among the interests of various stakeholders. If the threshold was set too low, it might give rise to discontent and grievances among those tenants who did not support the proposal.

10. Members considered that the availability of A/C in public markets was important in attracting customers. Some Members held the view that if the Administration would bear the A/C charges, tenants' support for retrofitting of A/C systems in most public markets would more likely reach the 80% threshold. In these Members' view, the retrofitting of A/C systems in public markets was for the benefit of the public and the "user-pays" principle should not be adopted in recovering the A/C charges. There was also a view that stall tenants should not be required to pay the A/C charges for common areas in public markets such as the passageways, A/C charges attributable to public areas of markets should be borne by the Administration while stall tenants should only pay charges on the basis of the actual size of their stall areas. At its meeting on 10 April 2018, the Subcommittee passed a motion requesting the Government to bear the A/C charges attributable to the common areas of markets.³

11. The Administration advised that recurrent expenses including electricity charges and general maintenance costs were to be borne by the stall tenants on a pro rata basis, based on the floor area of their respective stalls and it was reasonable for tenants to pay the A/C charges in accordance with the "user-pays" principle. According to the Administration, the high capital costs of retrofitting of A/C facilities were borne entirely by the Government. Unlike landlords in private commercial venues, who sought to recover the capital costs of retrofitting of A/C facilities through rental adjustments, the Government did not recover the capital costs. As tenants in public markets were in fact commercial operations, further Government subsidy in the form of A/C charges would deviate from the "user-pays" principle and might give rise to unfair competition between stalls in public markets and similar retail operators in private commercial retail premises or retail shops nearby. This could not be justified under the current Government policy. Regarding the A/C charges for common areas in public markets, the Administration considered that public areas were integral parts of the market trading environment and were used by the patrons of the stalls, it was reasonable for stall tenants to pay for the relevant A/C charges.

12. Some Members considered that the provision of A/C was particularly important to stalls selling fresh meat and fish as these products were highly

³ For wording of the motion, please refer to **Appendix I (Motion 2)**. As for the Administration's response, please refer to LC Paper No. CB(2)1572/17-18(01)

perishable in hot weather. These Members suggested that the Administration could explore the possibility of relocating those tenants who agreed to the retrofitting of A/C systems to the same floor so that the retrofitting projects could be taken forward more easily. According to the Administration, it had already been making arrangements for the retrofitting of A/C systems for individual floors in the public markets, such as the cooked food centres, which had a higher demand for such a facility in general.

Arrangements for carrying out A/C retrofitting works

13. During the deliberations of the Administration's proposal of retrofitting A/C system at Tai Wai Market, some Members commented that the Administration should formulate comprehensive plans in taking forward A/C retrofitting works in public markets. At the meeting, the Panel passed two motions urging the Government to implement measures to, among others, (a) expedite and shorten the retrofitting works to not more than six months; (b) provide a waiver of rental and A/C charges to the stall tenants; and (c) provide ex-gratia payments to the affected stall tenants.⁴

14. According to the Administration's written response⁵ to the motions passed at the Panel meeting, the full-closure period of Tai Wai Market could be shortened from about eight months to not more than seven months through various measures to compress the retrofitting works. In addition, the Government would fully consider all the factors such as the duration of works period and the difficulties of stall business encountered by tenants during the works period in considering possible assistance to stall tenants of a public market. Each case would be considered on its own merits and the proposed assistance would be considered in accordance with the established mechanism. After completion of the retrofitting works, a tenant affected by permanent deletion of his or her stall as a result might be relocated to a new stall. Given that the new stalls for relocation would be different from the existing stalls in terms of location and size, restricted auction, with concession in the upset price, was considered as a fair, transparent and expeditious mechanism to ensure proper allocation among the selected group of affected tenants.

Other measures to improve the operating environment of public markets

15. Some Members were of the view that apart from retrofitting of A/C systems to improve the environment of public markets, it was equally important to find the right trade mix to improve the operating environment of public markets. There was also a suggestion that in order to improve the operating environment of public markets, FEHD should consider removing the wall(s)

⁴ For wording of the motions, please refer to **Appendix II**.

⁵ For the Administration's response, please refer to LC Paper No. CB(2)1331/17-18(01).

between the stalls if neighbouring stalls were rented by the same tenant/beneficiary.

16. The Administration acknowledged that the sheer small size of a typical market stall made reasonable daily retail operation near impossible without intruding into the aisles. It would consider encouraging tenants renting multiple stalls to conduct their business in one single stall. In addition, the MMP would provide a prime opportunity to review management issues and offer new running models in the new market setting with complete new hardware and stall design. In the Administration's view, only with a holistic hardware-cum-software package would it be able to increase patronage as well as competitiveness of FEHD public markets thus making them more vibrant and serving the community.

Latest development

17. The Subcommittee will meet with deputations and the Administration on issues relating to the positioning and management of public markets and MMP (including retrofitting of A/C systems at public markets) at its meeting on 10 July 2018.

Relevant papers

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

食物安全及環境衛生事務委員會
Panel on Food Safety and Environmental Hygiene

研究公眾街市事宜小組委員會
Subcommittee on Issues Relating to Public Markets

在2018年4月10日會議上
就議程項目I "街市現代化計劃"通過的議案
Motion passed under agenda item I "Market Modernization Programme"
at the meeting on 10 April 2018

議案(一)

尹兆堅議員動議的議案
Motion moved by Hon Andrew WAN Siu-kin

(議案中文措辭)

市民對公眾街市服務有殷切需求，包括要求改善現有街市服務及興建新公眾街市，政府預留的 20 億元的「街市現代化計劃」及建議興建的新街市數目，明顯未能夠應付現代社會的需要。為加速街市現代化計劃及增加新公眾街市數目，本小組委員會促請當局設立「專款專用」機制，並注入足夠的資本，令政府有充足資源推行以下計劃：

1. 諮詢區議會後，選定合適地方興建新公眾街市，包括將建議興建的社區綜合大樓改為市政綜合大樓，融入公眾街市設施，以符合一地多用原則；及
2. 在未來十年推行街市現代化計劃，支援現有公眾街市的硬件改善工程。

Motion 1

(English translation of the motion)

That, given the keen demand in the society for public market facilities, including demand for improvement to be made to existing market facilities and building new public markets, the \$2 billion that the Government has earmarked for the Market Modernization Programme and the proposed number of new markets to be built are apparently unable to meet the needs of the present day society, and, in order to expedite the Market Modernization Programme and increase the provision of new public markets, this Subcommittee urges the Administration to introduce a "dedicated-funds-for-dedicated-uses" mechanism with injection of adequate capital to provide the Government with sufficient resources to take forward the following initiatives:

1. in consultation with the District Councils, identifying suitable sites for building new public markets, including the building of municipal complexes, instead of the proposed community complexes, for incorporating public market facilities in line with the "single site, multiple use" principle; and
2. launching a 10-year Market Modernization Programme to support the hardware improvement works for existing public markets.

議案(二)

譚文豪議員動議的議案 Motion moved by Hon Jeremy TAM Man-ho

(議案中文措辭)

為推動街市現代化，在街市空調收費的安排，本小組委員會認為街市公用地方的空調費用應由政府承擔，不應由街市檔戶負責繳付。

Motion 2

(English translation of the motion)

That, in order to facilitate market modernization, this Subcommittee is of the view that, regarding the arrangements on air-conditioning charges in markets, the air-conditioning charges attributable to the common areas of markets should be borne by the Government, and not by stall operators of the markets.

食物安全及環境衛生事務委員會
Panel on Food Safety and Environmental Hygiene

在 2018 年 3 月 13 日的會議上就
議程項目 V "大圍街市安裝空調系統工程(項目：3034NM)" 通過的議案
Motions passed under agenda item V "Installation of air-conditioning system
at Tai Wai Market (Item 3034NM)" at the meeting on 13 March 2018

議案(一)

何啟明議員動議的議案
Motion moved by Hon HO Kai-ming

(議案中文措辭)

本事務委員會促請政府，就大圍街市安裝空調系統工程，考慮實施以下措施，以減低工程帶來的影響，包括：

1. 免除街市檔戶租金一年；
2. 在原有街市附近設立臨時街市，供原有檔戶繼續擺檔經營；
3. 向受影響檔戶發放恩恤金；及
4. 免除檔戶日後維修費及冷氣費。

Motion 1

(English translation of the motion)

Regarding the installation of air-conditioning system at Tai Wai Market, this Panel urges the Government to consider taking the following measures to minimize the impact so caused, including the provision of:

1. a rental waiver to all stall tenants for one year;
2. a temporary market in the vicinity of Tai Wai Market so that existing stall tenants could move and continue their business in the temporary market;
3. ex-gratia payments to the affected stall tenants; and
4. a permanent waiver for stall tenants of general maintenance costs and air-conditioning charges.

議案(二)

葛珮帆議員動議的議案 **Motion moved by Dr Hon Elizabeth QUAT**

(議案中文措辭)

鑒於大圍街市的商戶在安裝冷氣工程期間生計大受影響，本事務委員會促請政府實施以下措施：

1. 加快工程進度，縮短工程至不超過 6 個月；
2. 工程完畢後街市重開，免租金及冷氣費用 12 個月(當中並不包括全封街市的幾個月份)；
3. 以協商而非競投處理原有檔戶拆遷安排；
4. 由於安裝冷氣期間檔戶沒有收入，檔內生財工具放置太久會有損耗，故此為商戶提供恩恤及補償；及
5. 將來街市公共地方的冷氣費、冷氣的保養及維修費用由政府承擔。

Motion 2

(English translation of the motion)

As the livelihood of the stall tenants would be seriously affected during the installation of air-conditioning system at Tai Wai Market, this Panel urges the Government to implement the following measures:

1. to expedite and shorten the retrofitting works to not more than six months;
2. to provide a waiver of rental and air-conditioning charges for 12 months (excluding the several months of full market closure) to the stall tenants when the market reopens after completion of works;
3. to handle the reprovisioning of existing stall tenants through negotiation rather than auction;
4. to provide ex-gratia payments to the stall tenants to compensate for their loss of income during the installation of air-conditioning system, as well as the wear and tear to their tools of trade which will be left idling for a prolonged period; and
5. to permanently shoulder the air-conditioning charges for common areas in the market, as well as the repair and maintenance costs of the air-conditioning system.

Appendix III

Relevant papers on Issues relating to the Market Modernization Programme

Committee	Date of meeting	Paper / Question
Panel on Food Safety and Environmental Hygiene ("FSEH Panel")	8.11.2016 (Item V)	Agenda Minutes
Legislative Council	1.3.2017	Official Record of Proceedings Pages 4714 to 4723 (oral question raised by Hon Wilson OR on "Retrofitting air-conditioning systems for public markets")
FSEH Panel	11.4.2017 (Item V)	Agenda Minutes
	31.10.2017 (Item I)	Agenda Minutes
Legislative Council	15.11.2017	Official Record of Proceedings Pages 2285 to 2297 (oral question raised by Hon SHIU Ka-fai on "Retrofitting air-conditioning systems for public markets")
FSEH Panel	13.3.2018 (Item V)	Agenda Minutes
Subcommittee on Issues Relating to Public Markets	10.4.2018 (Item I)	Agenda Minutes
	12.6.2018 (Items I and II)	Agenda