

For Information

LegCo Panel on Food Safety and Environmental Hygiene

Food Safety of Online Food Sale

Purpose

This paper briefs Members on the regulation of online food sale by the Government and our surveillance, enforcement and public education efforts on the food safety of the food concerned.

Regulation of Online Food Sale

2. E-commerce is getting more and more popular, including food transaction through the Internet, mobile applications or social media platforms (hereafter referred to as “online food sale”). Currently, food safety and food trade operations are regulated in various aspects under the laws of Hong Kong. Any person who undertakes business relating to producing, trading, importing or distributing food must meet the requirements of relevant legislation, irrespective of whether the business is conducted in physical premises, or through any means of transactions (including face-to-face, phone, electronic media, etc.).

3. The Public Health and Municipal Services Ordinance (Cap. 132) stipulates that all food for sale for human consumption in Hong Kong, whether imported or locally produced, must be fit for human consumption.

4. The Food Safety Ordinance (Cap. 612) stipulates a registration scheme for food importers and distributors and provides for requirements for them to maintain transaction records, so that in the event of a food incident, the sources and points of sale of the food concerned can be traced. This ordinance also applies to food sold online.

5. Regarding the operation of food businesses, the Food Business Regulation (Cap. 132X) stipulates that any person who carries on any business which involves preparation of food for sale for human consumption outside the premises, including online sale of the food concerned, must obtain a food factory license issued by the Food and Environmental Hygiene Department (FEHD). In addition, depending on

the circumstances, modes of operation and the types of food for sale, operators of online food sale business must obtain relevant licenses or permits issued by FEHD. Any person operating online food sale business shall not sell any restricted food specified in the Regulation (including sashimi, sushi, oysters to be eaten in raw state, etc.) unless the Director of Food and Environmental Hygiene has granted written permission to the person to do so.

Licensing Requirements for Online Sale of Restricted Food

6. With effect from February 2016, FEHD requires operators who do not have physical premises to apply for permits in accordance with the Food Business Regulation if they sell restricted food online. Permits are issued on the conditions that the operators must provide particulars, such as permit number, type(s) of restricted food permitted for sale and business address, on their websites and printed promotional materials for consumers' reference and verification on FEHD's website. In addition, the restricted food must be obtained from lawful sources and prepackaged by the suppliers before delivering to customers, the packages shall not be tampered with during transportation to prevent cross-contamination, and the food shall be stored at a safe and proper temperature at all times.

7. Regarding food premises with food business licenses or permits (except for Factory Canteen License, Cold Store License, Fresh Provision Shop License with endorsement(s) for sale of live poultry and/or processed fresh poultry carcasses and offal, and Permit to Sell Food by means of Vending Machine), the operators must comply with the conditions stated in the preceding paragraph if they also carry out online food sale.

8. As at 31 December 2018, FEHD has issued 395 permits for online sale of restricted food. The operators concerned are listed on FEHD's website for public inspection.

Surveillance and Enforcement

9. FEHD has been closely monitoring online food sale activities, including online traders that are not involved in food production and do not have physical premises. If FEHD suspects that any online food sale activity involves unlicensed business, or has doubts on the source and safety of the food concerned, it will conduct investigations, including decoy operations to collect evidence and information, and take appropriate actions.

10. From 2016 to 2018, FEHD instituted 130 prosecutions against unlicensed food premises conducting online food sale activities in breach of the Food Business Regulation. So far, 112 cases have been convicted, with fines ranging from \$500 to \$10,000.

11. In addition, the Centre for Food Safety (CFS) of FEHD takes food samples at import, wholesale and retail levels for testing, and adopts a risk-based approach in determining the types and the sizes of samples to be collected and the laboratory analyses to be conducted. As online food sale has become increasingly popular, CFS has stepped up the sampling of food sold online for chemical and microbiological tests. From 2016 to 2018, about 12 000 samples of such food were tested. With the exception of 9 samples detected with *Listeria monocytogenes* or preservative, pesticide residue or metallic contamination exceeding the relevant statutory standards, the test results of all samples were satisfactory.

12. Over the same period (2016-2018), CFS received 76 food complaints concerning online food sale and two cases of food poisoning referred by the Centre for Health Protection of the Department of Health in respect of food sold online. Appropriate follow-up actions on those cases have been taken, including taking food samples for testing, seizing food exhibits, and issuing warnings against the online traders concerned. Should there be sufficient evidence, prosecution will be made by CFS.

Public Education and Publicity

13. FEHD will continue to raise public awareness through various channels, including the FEHD website, television and radio announcements, promotional publications, etc., on matters to be attended to in respect of purchasing food online. These matters for attention include the nature, potential risks and temperature control during delivery by the suppliers of the food purchased online, particularly perishable and high-risk food.

14. FEHD will also keep reminding the trade of the need to apply for a food business license or permit under the law for operating a food business, irrespective of its scale and nature, in order to protect consumers' rights and health.

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