

**Eleventh Meeting of  
the Business Facilitation Advisory Committee**

***Agenda Item 3(c) : Report on the work of the  
Food Business Task Force***

**Purpose**

This paper reports on the work of the Food Business Task Force (FBTF) since the last Business Facilitation Advisory Committee (BFAC) meeting on 31 March 2009.

**Work progress of the FBTF**

***Study on the technical feasibility of “smoking rooms”***

2. During the deliberations of the Smoking (Public Health) (Amendment) Bill 2006, the Administration indicated that it would undertake a study on the feasibility of “smoking rooms”. The primary consideration for undertaking the study is to examine whether a smoking room can afford protection to non-smokers by providing a more effective separation between smokers and non-smokers, thereby minimizing exposure of non-smokers to second-hand smoke, technically also referred to as environmental tobacco smoke. The overarching principle is to protect the health of non-smokers outside the room. In August 2007, the Food and Health Bureau commissioned the Electrical and Mechanical Services Department as the consultancy manager and engaged the Hong Kong University of Science and Technology as the consultant to carry out the technical feasibility study of smoking rooms, drawing on their engineering and other relevant professional and technical expertise.

3. The two-stage study was completed in March 2009 and the Administration has recently reported the findings to the FBTF. The findings indicate that it is practically impossible to prevent the leakage of second-hand smoke when there is human movement in and out of the room, even with stringent design and ventilation standards. It also suggests that up-to-standard

smoking rooms are technically demanding and costly to build, operate and maintain. As such, allowing smoking rooms to be built may give rise to complaints about unfair competition among businesses. As there is no conclusive evidence to substantiate the effectiveness of smoking room in separating smokers and non-smokers and protecting non-smokers outside the room from exposure to second-hand smoke, and having taken into account the likely concerns of businesses about costs and unfair competition, the Administration considers that the setting up of smoking rooms is not feasible and therefore will not explore this option further. The FBTF took note of the study result and urged the Administration to render full support in helping the affected trades adapt to the smoking ban arrangement.

### ***Review of bakery licence***

4. The FBTF has commissioned the Efficiency Unit (EU) to conduct a review of Bakery Licence. The objective of the review is to examine the regulatory regime of bakery licensing with a view to identifying improvement opportunities to help remove unnecessary regulatory controls.

5. The review was completed in March 2009. The Study Team has reported the review findings to the FBTF. Major recommendations are re-grouping the bakery licence under the food factory licence, which will help simplify the licensing regime through reduction of the total number of licence types by one and avoid the “double licensing” requirement for general restaurants selling bakery products and other food products for take-away consumption; excluding the retail portion of bakeries from the licensed area in premises where the common retail area is shared among different businesses (e.g. bakeries in supermarkets, shopping arcades and convenience stores) to reduce administrative work to both the licensees and the Food and Environmental Hygiene Department (FEHD); and further relaxing the need for referral of bakery licence applications to the Fire Services Department for comments if electricity is the main cooking fuel and if no “open fire” or “deep frying” is involved. The FBTF generally welcomes the recommendations, but its main concern is the most likely negative reaction of the bakery trade against the extra payment of licence fees for the proposed replacement of the bakery licence by a food factory licence. The EU agrees to discuss with the stakeholding departments with a view to refining the recommendations and formulating a pragmatic implementation programme for taking forward the agreed recommendations.

***Implementation progress for the recommendations of the reviews on food factory licences and transfer of food business licences***

6. The Secretariat has requested the FEHD to review the progress for implementing the recommendations of the reviews on food factory licence and transfer of food business licences. Out of the 19 recommendations, 11 have already been implemented and the significant ones are –

- (a) to eliminate unnecessary referrals of food business licence applications to other departments in order to shorten the application processing time. For instance, establishments under the management of the Housing Authority, Government Property Agency, Leisure and Cultural Services Department and Agriculture, Fisheries and Conservation Department do not need to be referred to the Planning Department for compliance check with statutory plan restrictions;
- (b) to expand the list of items (movable appliances/facilities/furniture not of a substantial and permanent nature) that are not required to be shown on the approved layout plans to allow more flexibility to the trade and thus reduce applications for alteration involving these movable items; and
- (c) to differentiate (by administrative means) food factories into small retailing and other food factories and establish a fast track licensing process for small retailing food factories which do not involve any “complications”.

The remaining eight recommendations are either in progress or under consideration.

***Briefing on the proposed amendments on the food room area for general restaurants, light refreshment restaurants and factory canteens***

7. Under the Food Business Regulation (Cap. 132X) (FBR), “food room” means any room where any person engages in the handling of open food or in the cleaning of equipment for the purposes of a food business. The size of a food room is the aggregate area of the kitchen, other food preparation areas and space used for cleansing of utensils. Schedule 5 of the

FBR specifies the minimum requirements for licensed restaurants<sup>1</sup> (i.e. general restaurants (GR) and light refreshment restaurants (LRR)) and factory canteens (FC). For GRs, there is also a separate minimum kitchen area specified for each area band. The minimum food room requirement has been in place for many years. From time to time, the Administration receives suggestions from the food trade for its relaxation.

8. The FEHD has reviewed the minimum food room requirement, including the scope for revising the area bands and their corresponding requirements without compromising food safety and hygiene. The FEHD submitted a discussion paper to the Legislative Council Panel on Food Safety and Environmental Hygiene on 9 June 2009 to brief the Panel members on the proposal to relax the statutory food room requirements for licensed restaurants and FCs. The views of the Panel were supportive. The FBTF was consulted at its meeting on 18 June 2009, and members welcomed the proposal. The FEHD will initiate a legislative exercise to amend the FBR for effecting the relaxation proposal.

### **Way forward**

9. Members are invited to note the work progress of the FBTF. The FBTF will monitor the development of the issues.

Economic Analysis and Business Facilitation Unit,  
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<sup>1</sup> Schedule 5 of the FBR only specifies the minimum food room requirements for restaurants licensed on or after 1 February 1974. Restaurants licensed before that date and where no alteration has been made to the food room area, or seating accommodation (for GRs) / usable floor space (for LRRs) thereof are subject to requirements stipulated in Schedule 4. In case restaurants that were licensed before 1 February 1974 undergo alteration works now which affect their licensed "food room" areas or GFAs, they would still need to comply with the prevailing minimum "food room" requirements stipulated in Schedule 5.