

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

***Agenda Item 4 : Report on the progress of the
“Be the Smart Regulator” Programme
– October 2007 update***

Purpose

This paper reports on the progress of the “Be the Smart Regulator” Programme¹ (the Programme) since the last Business Facilitation Advisory Committee meeting held on 25 July 2007.

Latest Progress

Overview

2. Through the concerted efforts of Bureaux/Departments (B/Ds) concerned, we are making good progress in improving the overall licensing environment for doing business in Hong Kong. Business Liaison Groups established for major business sectors are instrumental to help resolve regulatory/licensing issues and enhance communication between the trades and B/Ds. The food business has benefited from more efficient and customer-centric licensing services following the implementation of a number of improvement measures under the Programme in the Food and Environmental Hygiene Department. The progress of some key improvement measures/initiatives are detailed below.

World Bank’s study report on “Doing business 2008”

3. World Bank has been publishing comparative data on the ease of doing business in its annual report with a view to inspiring governments to reform. As outlined in the information paper (*BFAC Paper IN 1/07*) issued to Members on 2 October 2007, Hong Kong ranks 4th overall in the current

¹ The Government has implemented the Programme since late 2006 to further improve Hong Kong’s licensing processes and business environment. The Programme aims to improve the efficiency, transparency and business-friendliness of Hong Kong’s licensing processes with the aim of reducing compliance costs to the business community while safeguarding public interests.

World Bank report, up from the 5th position last year. While Hong Kong is among the world's top ranked economies in categories including ease of "enforcing contracts", "getting credits", "protecting investors", "paying taxes" and "trading across borders", Hong Kong's performance in "dealing with licences", "registering property" and "starting a business" leaves room for improvement.

4. Hong Kong ranks 60th in the "dealing with licences" indicator, an improvement from the 64th position last year. World Bank has used a hypothetical case of "building a warehouse" as the basis for the ranking, which neither fully reflect the myriad licensing work in an economy nor well represent business operation for a highly service-economy like Hong Kong. Having said this, the Development Bureau, Economic Analysis and Business Facilitation Unit (EABFU) and six related departments² have formed a Working Group to explore possible ways to improve and streamline the licensing procedures for building a warehouse. The Working Group held its first meeting in early October, and aimed to complete implementation of agreed improvement measures in late December this year. The work progress of the Working Group will be reported to the BFAC in due course.

5. On "starting a business", Hong Kong's ranking slipped from 5th in 2007 to 13th this year because other economies have improved. EABFU will coordinate efforts with the Companies Registry and the Inland Revenue Department to explore whether there is room to streamline the procedures and shorten the time required for company and business registration.

6. On "registering property", Hong Kong's ranking has slightly improved from 60th in 2007 to 58th this year. Hong Kong takes 54 days to register property in Hong Kong as quoted in the Report, out of which 42 days are for solicitors to carry out various procedures and the remaining 12 days are for Government procedures. The Administration is working to replace the current deed registration system with a more effective system of title registration, similar to that in most other common law jurisdictions. The Administration will introduce legislation for the title registration system into the Legislative Council, and develop IT systems and practices to further speed up registration processes.

² The six departments are the Buildings Department, Drainage Services Department, Fire Services Department, Highways Department, Lands Department and Water Supplies Department.

Business Liaison Groups (BLGs)

7. EABFU has set up eight BLGs³, which cover most of the active business licences of concern to the trades. The trades have raised 282 issues, of which 180 have been clarified or resolved. The remaining issues are being pursued by relevant departments.

8. We have launched a new BLG web page on EABFU's web site since mid-September. The public can access the BLG meeting notes, enroll for the BLG meetings, and submit their feedback or suggestions through the web site.

9. EABFU is assisting the Leisure and Cultural Services Department in forming a new BLG in November this year for Places of Amusement Licences, which cover billiard establishments, public skating rinks and public bowling-alleys.

10. Four departments have established their own regular trade liaison forums which serve similar purpose as that of the BLGs. We will work together with B/Ds to adopt a common approach in running BLGs.

Opinion survey

11. The University of Hong Kong submitted the final report of the opinion survey on regulatory impact on business in Hong Kong in mid-September. The key observation is that while the level of regulations and compliance costs in Hong Kong is acceptable, enforcement and compliance services provided by the Government are unsatisfactory. The main recommendations on the Government's future business facilitation efforts are to shift from prosecution to facilitation; to change its mentality in enforcement; and to target on business sectors which require assistance. A summary of the main findings and observations of the survey is set out in the paper provided by the University of Hong Kong at **Annex**. We will follow up the recommendations of the survey.

³ The eight BLGs cover the cinema, theme park, family amusement centre, hotel, recreation club, other entertainment establishment (such as mahjong club and karaoke club), restaurant food business and non-restaurant food business sectors respectively.

Business facilitation in the Food and Environmental Hygiene Department (FEHD) and the Home Affairs Department (HAD)

12. The Business Facilitation Officers in FEHD and HAD with the support of the Efficiency Unit (EU) have sustained the momentum in assisting both departments in improving their licensing activities.

Application Tracking Facility (ATF)

13. EU is making preparation to open up FEHD's ATF covering 12 food-related licences to applicants for their online tracking of application status by February 2008. A similar ATF enhanced with case management functions was implemented in HAD in September 2007 to support the processing of hotel and guesthouse, bed space apartment, karaoke establishment and club licences.

14. Extension of the ATF to the Social Welfare Department to support its processing of licensing applications for the Residential Care Homes for the Elderly is in progress. It is expected to be completed in November 2007.

Review of licensing process

15. Following an internal review, HAD has reduced the internal performance target for processing licence application for club by 15% from 110 to 94 working days. EU will continue to work with HAD for possible ways to further shorten the processing time with the aid of the ATF. HAD is actively exploring the adoption of third party certification for its licences.

16. FEHD has streamlined the processing of food business-related licences by dispensing with unnecessary referrals. In addition, the licensing process for cases awaiting formal completion of lease modification procedures has been shortened by around 12 months as a result of new administrative arrangement agreed between the Lands Department and FEHD.

Review of licensing guides

17. A newly prepared layman's guide for HAD's Club Licence and a corresponding technical guide have been uploaded onto the departmental web site. A revised guide for FEHD's Liquor Licence will be published once

endorsement is obtained from the Liquor Licensing Board. A draft licensing guide for FEHD's Outside Seating Accommodation is being prepared, and the trade will be consulted before the guide is finalised.

Cultivation of customer-centric culture

18. EU continues to work in partnership with the Civil Service Training and Development Institute (CSTDI) to promote customer service culture in the civil service. CSTDI has arranged customer service training for the Electrical and Mechanical Services Department and the Fire Services Department (FSD). The training programme will be extended to other B/Ds.

Business impact assessment (BIA) mechanism

19. EABFU will consult B/Ds on the feasibility and practicability of the BIA framework in the coming months. Meanwhile, we are working with FEHD and FSD to test the BIA framework, using two of their new regulatory proposals in order to further refine the framework before full implementation.

Way Forward

20. Members are invited to note the progress of the Programme. The Secretariat will report further progress in due course.

Efficiency Unit,
Chief Secretary for Administration's Office
Economic Analysis and Business Facilitation Unit,
Financial Secretary's Office
November 2007

Summary of the Opinion Survey on Regulatory Impact on Business in Hong Kong

An opinion survey to collect views of businesses on regulatory control on business in Hong Kong was conducted from late May to early August 2007, covering a representative sample of 2 164 business establishments in 20 industry sectors, achieving a response rate of 61%.

High acceptability of regulations by business sectors

2. Most business operators consider that government regulations are desirable from the points of view of public interests, the image of Hong Kong and the development of industry.

Low compliance costs

3. The survey findings show that the impact of regulatory control on businesses is in general insignificant. Comparing to their total operating costs, the establishments indicated that the total compliance costs devoted to complying with regulations were relatively low with an index of 3.6 (1 - lowest, 10 - highest).

Little adverse impact on business

4. Businesses in general do not consider government regulations to have any adverse impact on revenues, investment decisions and their ability to introduce new products or services, to survive and to compete with other companies in Hong Kong. Nevertheless, business operators are marginally worried that government regulations would affect their competitiveness vis-à-vis other companies overseas.

Businesses' needs have been overlooked

5. On the other hand, more than half of business operators consider that government regulations are not in line with current business practices, that business needs are not taken into account and that there has been an increase in the amount of regulatory control on business in recent years.

6. Less than half of business operators are of the view that government has taken steps to eliminate outdated, excessive, repetitive and unnecessary regulations, though more than half reckon that government has done a lot to review the relevance of existing regulations.

Unsatisfactory enforcement and compliance services

7. Views of businesses are less favourable in respect of consultation and communication processes related to government regulations. Less than half of business operators consider that they have been fully informed and consulted, and that there are sufficient communication channels with relevant government departments on the enforcement of regulations.

8. In addition, there is much room for improvement on the enforcement of regulations. Only about 31% of business operators consider that government departments are flexible enough to cater for operational needs of different companies. More than half consider that different standards are adopted by different government departments on similar matters. Less than half consider that there is sufficient coordination between different government departments.

9. Government regulations are too complicated to understand and there is too much documentation work, according to the views of more than half of business operators. The quality of compliance services is also considered unsatisfactory. Less than half of business operators are of the view that there has been adequate use of IT to help business comply with regulations, and that government departments have provided sufficient guidelines to help business comply with regulations. Only about 38% consider that staff of government departments are helpful.

Five most burdensome regulations

10. In the survey, establishments were asked to name three regulations they considered most burdensome. 84% of establishments did not name any specific regulations while only 16% had responded to this question. According to the responses from these 16%, the top five types of regulations frequently mentioned by businesses as being burdensome are labour-related ordinances, Import and Export Ordinance, environmental legislation, Estate Agents Ordinance and Public Health and Municipal Services Ordinance.

Recommendations

11. The major recommendations on Government's future business facilitation efforts are:

(a) Shift from prosecution to facilitation

- There should be a substantive shift in the present approach in enforcing government regulations. More efforts should be placed in educating and helping industry to establish and adopt code of good practices.

(b) Change in mentality in enforcement

- Officers should rate their performance by the extent to which business operators are assisted in complying with regulations, resulting in fewer warnings, less fines and fewer prosecutions.

(c) Target business sectors which require assistance

- Focus efforts on regulations and sectors with which the trades are most concerned – labour-related, import and export-related, environmental-related, and food business-related regulations; and the food business, hotels and boarding houses, and amusement and recreational services sectors.