

**Ninth 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 23 June 2008.

Work progress of the FBTF

2. The FBTF is following up the trade's concerns about the technical feasibility on "smoking rooms", the Trade Effluent Surcharge Scheme, and additional licence conditions for conducting temporary or occasional hot-pot or food warming activities. The FBTF also requests a review on the bakery licence. Details are given below.

Study on the technical feasibility of "smoking rooms"

3. During the deliberations of the Smoking (Public Health) (Amendment) Bill 2006, the Administration undertook to study the technical feasibility of "smoking rooms". The primary consideration is to examine whether a "smoking room" can better protect non-smokers by providing a more effective separation between smokers and non-smokers, thereby minimizing exposure of non-smokers to second-hand smoke. In August 2007, the Administration commissioned the Hong Kong University of Science and Technology to carry out the study, drawing on their engineering and other relevant professional and technical expertise. It is expected that the study will be completed in the first quarter of 2009 and that the findings will be reported to the Panel on Health Services of the Legislative Council.

4. Members of the FBTF worry that the study duration is too long to allow ample time for the trade to set up the "smoking rooms" before the expiry of exemption on 1 July 2009. They are also concerned that the potential high set-up cost will deter the trade from establishing "smoking rooms". The Administration undertakes to expedite the study as far as

possible and to make reference to the pilot “smoking room” recently established by the trade before finalizing the study. The Administration will further consider whether “smoking room” is feasible and should be put into practice in the light of the technical feasibility study findings. To assess the feasibility of “smoking room”, the protection of public health remains paramount and the primary objective is to further reduce exposure of non-smokers to second-hand smoke.

Restaurant trade’s concerns on the Trade Effluent Surcharge (TES) Scheme

5. At the last BFAC meeting, Members expressed concerns on the current re-assessment mechanism of the TES. After discussion, the BFAC agreed that the issue be followed up by the FBTF.

6. The restaurant trade is upset with the Administration for having an excessive TES rate charged to them and failing to provide a simple, transparent and economical re-assessment system for the TES Scheme. The trade suggests that the Administration should -

- (a) streamline the re-assessment process so that the re-assessment cost will no longer be a deterrent for them to apply for re-assessment; and
- (b) award the cost of re-assessment to the successful applicants.

7. In order to reduce the re-assessment costs and encourage more operators to adopt good pollution control practices and apply for re-assessment, the Administration has implemented the following measures –

- (a) in 2007, the Administration extended the validity period for a re-assessed TES rate from one year to two years and amended the related Technical Memorandum to reduce the number of specified sampling days from three to two for establishments of which chemical oxygen demand¹ (COD) load discharged is less than 50 kg/day;

¹ COD measures the amount of oxygen required to decompose organic matter chemically and is hence a measure of polluting load. The higher the level in wastewater, the greater is the cost of treating it. The TES is calculated based on the average strength of effluent, expressed in terms of generic COD values, discharged by the specified trades having regard to their particular operations.

- (b) from 1 August 2008 onwards, the Administration has further extended the validity period for a re-assessed TES rate from two years to three years to further reduce the cost of the reassessment. It is estimated that the re-assessment costs can be reduced significantly by around 80%; and
- (c) on 22 September 2008, the Drainage Services Department (DSD) conducted two public forums to explain the further extension of validity period to the stakeholders concerned, and to clarify that an applicant may contact the DSD direct for arrangement of the sampling instead of employing a consultant as a middleman for the re-assessment application so as to reduce the costs for re-assessment further. Guidelines on the application for re-assessment were also fully elaborated.

8. The FBTF requests the Administration to further reach out to the trade to explain the new measures so that more operators could understand better the costs and benefits involved in re-assessments.

Additional licence conditions for conducting temporary or occasional hot-pot or food warming activities

9. Restaurants licensed for hot-pot business are currently subject to compliance with the additional fire safety and ventilation requirements imposed by the Fire Services Department (FSD) and the Food and Environmental Hygiene Department (FEHD). In view of the mounting demand by restaurant operators using portable stoves to provide temporary or occasional hot-pots and food warming at the tables in the seating accommodation (excluding outside seating accommodation²) of restaurants not purposely licensed for hot-pot business, and the need to mitigate the fire risk so generated, the FEHD and the FSD plan to regulate the hot-pot / food warming activities by imposing additional licence conditions on General Restaurant and Factory Canteen Licences. Restaurant and canteen operators may make available temporary or occasional hot-pots and food warming at dining tables without having to obtain prior approval from the departments concerned, provided that specified requirements are met. These new additional licence conditions could be construed as a relaxation of regulatory control on cooking / food warming in seating areas.

² No heating activities involving naked flame for cooking/food warming is permitted inside the Outside Seating Accommodation under the current Guide to Applications for Outside Seating Accommodation.

10. If temporary or occasional hot-pot / food warming activities are conducted at the tables in the seating accommodation (excluding outside seating accommodation) of restaurants, portable stoves using electricity / specified chafing fuels / approved liquefied petroleum gas cartridges shall be used. Licensees of general restaurants and factory canteens shall observe the additional licence conditions imposed.

11. The trade expresses concerns on some of the additional conditions and requests the Administration to provide adequate grace period for the trade to prepare for the changes. It is agreed at the meeting that further consultation forum(s) / briefing session(s) will be held to explain and discuss the issues raised by the trade.

Trade's suggestions on improvement areas for Bakery Licence

12. The trade suggests exempting licensed General Restaurants from applying for Bakery Licences. Under the existing licensing regime, if the baking of bread and other bakery products is carried out in a licensed general restaurant and if such bakery products are for the consumption of customers on the premises, no separate bakery licence is required. However, for the retail sale of bread and other bakery products prepared in a licensed restaurant in a separate counter / portion of the premises, a separate bakery licence is required. The trade considers the above licensing arrangement unnecessary and has proposed to review the licensing requirements.

13. The trade also suggests relaxing outdated fire safety measures imposed on bakery shops and simplify the overly prescriptive "Making of Bakery Products from Frozen Pre-prepared Dough Licence", which allows food retail shops without food rooms to warm or re-heat bakery products made from pre-prepared dough by electricity. The Efficiency Unit agrees to undertake the review.

Way forward

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