

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

***Agenda Item 3(d) : 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 1 November 2007.

Work progress of the FBTF

2. The FBTF is monitoring the implementation of the recommendations of two completed reviews on “Outside seating accommodation for restaurants” and “Liquor licensing”. Another two reviews, one on “Food factory licence” and another on “Transfer of food-related licences” were just completed, and the FBTF will monitor the development of a plan to implement the recommendations. The FBTF has facilitated the trade’s communication with the Administration concerning the “Offensive trades clause in old Government leases”. The FBTF will continue to follow up the “Review of the Design Manual: Barrier Free Access 1997”. Details are given below.

Review of outside seating accommodation (OSA) for restaurants

3. The FBTF had requested the Food and Environmental Hygiene Department (FEHD) to review the progress for implementing the OSA study recommendations. 10 of the 11 recommendations have already been implemented. Regarding the remaining recommendation of establishing a mechanism for handling objections to OSA applications within a specified timeframe, FEHD considers to establish a case meeting mechanism to let the applicant and objector(s) express their views before finalizing a decision on the application. FEHD will convene the case meeting on a trial basis. The FBTF will continue to monitor the progress for implementing the review recommendations.

Review on liquor licensing

4. The study team commenced the review in mid-August 2006. The review aims to improve the processing of liquor licence and club liquor licence applications with a view to rationalizing the existing regulatory regime; shortening the overall processing time, and providing a more business-friendly environment for the related trade to operate in. The study team completed the review in early 2007 and has developed short- to long-term recommendations to address the trade's concerns and other issues identified while safeguarding the community's interests. Key recommendations included delegation of authority to the Licensing Offices for approval of non-contested cases, enhanced customer service for provision of one-stop service, provision of improved licensing guide and application form, introduction of performance pledges, setting up an application tracking system, introduction of a notification system for short-term temporary absence, and legislative review on the feasibility of issuing a liquor licence to a corporation or otherwise allowing multiple authorized persons to supervise the liquor licensed premises, extension of the licence duration and obviating the need for a newspaper advertisement.

5. The implementation of the recommendations would help shorten the processing time of new applications for liquor licence by around a month i.e. by around 40%. The trade estimated that there would be an opportunity cost saving of around \$200 million for those new food businesses in a year as a result of the shortening of processing time. The transparency and business-friendliness of the licensing system would also be improved.

6. All the short- and medium-term recommendations have been implemented. As for the longer-term target of conducting a legislative review on liquor licensing as recommended by the Study Team, it has policy as well as law and order implications. The Food and Health Bureau (FHB) is seeking the views of relevant Government departments on the proposals. FHB will consult the FBTF, LegCo and other stakeholders once they have mapped out the way forward. The FBTF will monitor the progress of legislative review.

Review of the Design Manual: Barrier Free Access 1997

7. Having reviewed the Design Manual: Barrier Free Access 1997, the Administration had issued a draft revised Design Manual for public consultation which was completed last year. The Administration is finalizing

the revised Design Manual, and plans to introduce the necessary legislative proposal to the LegCo by early 2008.

8. The catering trade supports in principle the provision of a barrier-free physical environment for people with disabilities (PWDs) though it considers that some of the requirements governing the provision of barrier-free access and facilities for PWDs under the draft revised Design Manual proposed by the Administration are over-stringent. To address the trade's concerns, the FBTF had discussed with the Administration whether a more balanced and flexible approach could be adopted to meet the revised requirements, but the feedback was not promising. The FBTF will arrange meetings for PWDs to exchange views with the food business trade with a view to facilitating mutual understanding and exploring feasible ways to meet the revised requirements of the Design Manual with more flexibility.

Reviews on food factory licence and the transfer of food-related licences

9. The FBTF commissioned the Efficiency Unit (EU) to conduct two regulatory reviews, one on food factory licence and the other on transfer of food business licences. The objectives of the reviews are to identify improvement opportunities to help remove unnecessary regulatory controls on food factories and to streamline the transfer process of all types of food business licences.

10. The study commenced in early August 2007, and was completed in January 2008. The Study Team had developed a list of recommendations (**Annex**) and reported to the FBTF in January 2008. Subject to the views of the FBTF and departments concerned, the EU and stakeholding departments will further refine the recommendations and develop an implementation plan.

Offensive trades clause in old Government leases

11. At the FBTF meeting held in May 2007, Members had expressed concern on the change in policy governing the grant of licence under the lease for restaurant and hotel uses within lots subject to offensive trades clause. In August 2007, the LandsD had issued a Practice Note explaining that it would continue with the previous practice of charging only an administrative fee for the variation of the offensive trades clause to accommodate restaurant and hotel uses under the Government lease. The licence agreement that was prepared after the issue of the Practice Note contains a provision in which the licence relating to a lot will be cancelled automatically if any user of that lot breaches the conditions of the licence.

This means that if any merchant of a commercial centre breaches the conditions of the licence under the lease, the licence will be cancelled automatically, rendering other merchants in breach of the lease. Members considered this arrangement unreasonable and requested LandsD to review the matter at the FBTF meeting held in October 2007.

12. After seeking legal advice, LandsD has informed the FBTF that it will revise the licence agreement as follows to address the trade's concerns –

- (a) The “automatic” termination clause will be revised as “reserving the right” to terminate the licence when the condition is in breach and has not been rectified; and
- (b) In respect of the single lot situation, the Government may terminate the licence under the lease for the whole lot, or in respect of the unit that is in breach only, considering that there may be many units within a building.

Way forward

13. Members are invited to note the work progress of the FBTF.

Economic Analysis and Business Facilitation Unit,
Financial Secretary's Office
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**Recommendations of the reviews on
food factory licence and the transfer of food-related licences**

Food factory licence

- (i) To differentiate food factories into small retailing and other food factories. It is recommended that a fast track licensing procedure be developed for small retail food factories which do not involve any 'complications'.
- (ii) To remove excessive controls on layout plan and alterations to facilitate business operations. Removal of some of the excessive controls may require legislative amendments.
- (iii) To review the list of items that must be included in the approved layout plan to eliminate the need for unnecessary alteration approval.
- (iv) To re-define referral rules to eliminate unnecessary referrals to other departments.
- (v) To establish standard referral procedures to ensure that all the necessary information is provided to avoid subsequent clarifications that will lengthen the processing time.
- (vi) To improve the licensing guide and application form to facilitate applicants' better understanding of the licensing requirements.
- (vii) To establish performance pledges for alteration applications.
- (viii) To make more effective use of the existing management information system to enable better monitoring of alteration cases.

Transfer of food-related licences

- (ix) Similar to alterations, to establish performance pledges and an effective management information system to enable better monitoring of transfer cases.
- (x) Similar to applications for new food factory licences,
 - re-define referral rules to eliminate unnecessary referrals to other departments; and
 - establish standard referral procedures to ensure that all the necessary information are provided to avoid subsequent clarifications that will lengthen the processing time.

Cross–licence issues

- (xi) To rationalise the requirements on Hygiene Managers and Hygiene Supervisors to allow flexibility for them to be appointed on a premises-based rather than licence-based approach.
- (xii) To expand the capacity of the existing Application Transfer Facility to cater for alteration and transfer applications of all food business licences.