

13th Business Liaison Group Meeting with the Trade of Recreational Clubs

Date: 20 January 2014
Time: 2:15 p.m. – 4:00 p.m.
Venue: Conference Room 3, G/F, East Wing, Central Government Offices, 2 Tim Mei Avenue, Admiralty

Convenor: Mr CHAN Wah-chan Head, Business Facilitation Division,
Economic Analysis and Business Facilitation Unit

Trade Attendees

The Helena May

Ms Betty SIMPSON General Manager

Chinese Recreation Club

Mr Theo LAU General Manager

Clearwater Bay Golf & Country Club

Mr Ken FAN General Manager
Ms Florence KONG Personal Assistant to General Manager
Mr Nick NIGHT Director of F&B

Gold Coast Yacht & Country Club

Mr Robert BLTHYE General Manager

The Hong Kong Jockey Club

Ms Irene TAM Hospitality Administration Manager

Club de Recreio

Mr Vasco DA COSTA General Manager

Hilltop Country Club

Mr Carl CHAN Finance and Administration Manager

Hong Kong Aviation Club

Mr Stanley KONG General Manager

India Club

Mr Cris PEREIRA General Manager

Police Sports and Recreation Club

Mr Peter IP Manager (Police Sports & Recreation Club)(Per Wing)

Government Representatives

Customs and Excise Department (C&ED)

Mr Michael KWAN Group Head (Intellectual Property Investigation
(Operations))

Mr Guy FONG Divisional Commander (Intellectual Property Technology
Crime Investigation)

Buildings Department (BD)

Mr Allen LAU Senior Building Surveyor/ Signboard Control

Food and Environmental Hygiene Department (FEHD)

Mr Eric CHEUNG Superintendent (Licensing)

Home Affairs Department (HAD)

Mr Timothy LEE Building Surveyor (Licensing Authority) S1

Economic Analysis and Business Facilitation Unit (EABFU)

Mr Peter FUNG Chief Management Services Officer (*Secretary*)

Miss Jenny YEUNG Business Facilitation Officer

In attendance

Mr Chris CHAN Member, Business Liaison Group (BLG) Task Force

Mr Victor LAM Member, BLG Task Force

Action

The **Convenor** welcomed all to the meeting. He said that the notes of the last meeting had been posted to the Business Facilitation Initiatives website (http://www.gov.hk/tc/theme/bf/pdf/RC_BLG_12_Notes_a.pdf) for trade's reference.

Briefings by Government departments

Alignment of fees and charges by FEHD

2. **Mr Eric CHEUNG** gave a briefing on "*Alignment of fees and charges of FEHD*" to the trade. He advised that in the 2013 Policy Address, the Chief Executive announced a plan to amend the legislation to align the different levels of fees and charges for similar municipal services in the urban areas and New Territories. Where the fee for a service differed between the urban areas and New Territories, the lower rate would

prevail. The aligned fee had taken effect since 19 July 2013. For licences/permits applicants who had paid the old fee before 19 July 2013 for a service which rendered on or after 19 July 2013, or for a licence/permit which became valid on or after 19 July 2013, FEHD had completed the refund procedures for the over-payment cases by cheque.

Waiving the requirement of providing referees' signature on the application for liquor licence by FEHD

3. **Mr CHEUNG** gave a briefing on “*waiving the requirement of providing referees' signature on the application form for liquor licence*” to the trade. His presentation slides were at Annex 1.

4. **Mr CHEUNG** advised that for the liquor licence application before June 2013, applicants had been required to furnish to the Liquor Licensing Board (LLB) in the application form two referees who would be able to certify that the applicant was a “fit and proper person” for holding a liquor licence; and the two referees had been required to sign on the “References for Applicant” in the application form. In cases of electronic application, the referees had been required to submit their digital signatures. To facilitate the trade in the application, FEHD had since June 2013 revised the application forms for new issue, renewal and transfer of liquor licence and club liquor licence. The signature requirement for the two referees was dispensed while the applicant was still required to provide the referees' personal information for inspection by LLB and Police.

5. **Mr CHEUNG** advised that the new application forms were available on websites of LLB (http://www.fehd.gov.hk/english/LLB_web/llb_home.html), FEHD (<http://www.fehd.gov.hk/>), Online Licence Services website (https://www6.licensing.gov.hk/eullp/llp-status/web/welcome/index.html?lang=zh_HK); and the three Liquor Licensing Offices of FEHD.

Validation Scheme for unauthorised signboards under the Signboard Control System by BD

6. **Mr Allen LAU** gave a briefing on “*Validation Scheme for unauthorised signboards under the Signboard Control System*” to the trade. His presentation slides were at Annex 2. **Mr Allen LAU** said that the Validation Scheme was implemented on 2 September 2013. For unauthorised signboards in existence or completed before 2 September 2013 and fall within the list of prescribed building or building works in Part 3 of Schedule 3 of the Building (Minor Works) Regulation (Cap 123 sub. Leg. N) (B(MW)R), signboard owners might retain them for continued use after inspection, strengthening (if required) and certification of their structural safety by a prescribed building professional (PBP) and/or prescribed registered contractor (PRC) to the Building Authority. The unauthorised signboards thus validated could be retained for five years. During the 5-year validity period, BD would not take enforcement actions against the validated signboard but the signboard owner should maintain the signboard properly in a structurally safe condition. If a validated signboard became dangerous or lack of proper maintenance, BD might take prompt enforcement action to require for its removal or repair.

7. **Mr Allen LAU** also advised that the signboard owner should make fresh validation submissions or remove the signboards after the expiry of the validity period, otherwise, BD might take prompt enforcement action. A new business operator could use an existing validated signboard for the remainder of the 5-year validity period, subject

to substantiation that the physical conditions remain unchanged as at time of its initial validation.

8. **Mr Ken FAN** enquired whether it was necessary for the trade to apply to BD if they wish to erect a temporary signboard for a particular event for a short period, say one to two weeks. **Mr Allen LAU** clarified that the Validation Scheme only applied to existing unauthorised signboards erected before 2 September 2013 while proposed new signboards should be covered under the Minor Works Control System. In addition, in assessing whether a signboard would constitute as building works, BD would take into consideration the related factors such as the supporting frame of the signboard and how the signboard was fixed to the parent structure.

9. **Mr Allen LAU** advised that the lists of building professionals and registered contractors eligible to carry out signboard validations were posted on BD's website (<https://mwer.bd.gov.hk/REGISTER/RegistrationSearch.do?method=SearchRegistration>) for easy reference of the public.

Matters arising

Application for restricted food permits – revised application form

10. **Mr Eric CHEUNG** advised that FEHD was reviewing the application forms for various types of permits. Currently, the trade could use the old forms for the applications for restricted food permits. FEHD would report at the BLG meeting again should the revised forms were ready for roll out.

FEHD

New issues

Enforcement actions on copyright infringement of karaoke systems

11. **Mr Michael KWAN** gave a briefing on “*Enforcement actions on karaoke systems*” to the trade. His presentation slides were at [Annex 3](#). **Mr KWAN** said that a large scale enforcement action on karaoke systems was taken in mid-December 2013 and the investigation was still ongoing.

12. **Mr KWAN** told the trade that copyright was an automatic right under the Copyright Ordinance in Hong Kong. It existed when a work was created and recorded and no registration was required. The Ordinance specified that the end-user would be liable if he/she used pirated copyright work, which included musical sound/visual recordings, in the course of business. The end-user would be held liable to civil infringement if he/she reproduced or transferred a legitimate musical sound/visual recording, or held liable to criminal infringement if he/she used infringing copies in the course of business.

13. **Mr KWAN** said that though a karaoke system with no songs installed should not have copyright issue, a karaoke system installed with tens of thousands of songs sold at a few thousand dollars would have a high probability that the

songs installed were infringing copies.

14. **Mr KWAN** explained to the trade that it would be a civil infringement if songs from a legitimate music CD were transferred to MP3 format without the authorization of the copyright owner, and it might even be a criminal offence if the trade would use the song thus transferred, an infringing copy, for business purposes. Songs downloaded from Internet and played in the club might also have infringement issues.

15. **Ms Betty SIMPSON** enquired whose liability it would be if a music CD was played in a closed function room rented out to club members. **Mr KWAN** replied that the decision would be on a case-by-case basis but in general, the club operators might be held liable if they had the knowledge that the club members were playing infringing music CD but still allowed the members to use the club house or its facilities. **Mr FAN** further enquired what if the club members were playing legitimate music CDs in a closed area for a private party at the club premises. **Mr KWAN** replied that it would not be a criminal offence, however, it might be a civil infringement.

16. **Mr FAN** enquired the approximate cost for obtaining legitimate songs for karaoke systems. **Mr KWAN** replied that he had no such information. However, he understood that some musical companies had a division solely on karaoke system licence fees. He advised Mr FAN to contact these companies direct for more information.

17. **Mr Theo LAU** enquired whether C&ED had kept a list of companies which were licensed by the musical companies to sell legitimate karaoke songs. He said that it was very difficult for the trade to tell whether the suppliers/agents selling karaoke songs to them were licensed by the copyright owners or not. **Mr KWAN** advised that the trade should pay due diligence to check whether the suppliers/agents were authorised by the copyright owners. They should ask them to provide document proof and then check with the relevant music companies. Most of the music companies in Hong Kong were members of the International Federation of the Phonographic Industry Hong Kong (IFPI), as such, the trade could check with IFPI first.

18. **Mr KWAN** further advised that C&ED would take enforcement actions upon complaints by copyright owners or the public. It was necessary for the copyright owner to testify that at least one of the songs installed in the karaoke system was infringing in nature. Without the assistance of the copyright owner, it would not be possible for C&ED to proceed with the enforcement action.

19. **Mr Vasco da COSTA** enquired that in case a DJ was hired for a club function, whether it was the club's responsibility to check the legitimacy of the musical work he/she played; and if the DJ did play infringing musical works, whether the club would be held liable. **Mr KWAN** advised that under the contract between the club and the DJ, the club should make it very clear that the DJ should play legitimate musical works only. The DJ would be held liable if he/she played infringing work in breach of the contract signed. However, **Mr KWAN** supplemented that under the end-user's liability, in case the DJ was playing lots of infringing musical works regularly for a long period of time and the

proprietor/owner/director/manager of the club knew about it, they might be held liable because they did not exercise internal control to rectify the situation.

20. In response to **Mr Cris PEREIRA**, **Mr KWAN** advised that if the director or the proprietor of a business had set aside budget for buying legitimate musical works but the staff used the money to buy infringing copies, the liability would normally rest on the staff.

21. **Mr da COSTA** and **Mr Peter IP** enquired whether hiring of live bands for parties would have copyright infringement issues. **Mr KWAN** replied that there might be issues as even for live performance of musical works, the lyrics and rhythm of the songs might still be protected by the Copyright Ordinance.

22. **Mr da COSTA** enquired whether it would be a copyright infringement if magazines were provided by the club for the members to read at the club premises. **Mr KWAN** replied that magazines were not covered by the end-users' liability.

Posting Government information on business facilitation measures or licensing/regulatory requirements on trade's websites

23. The **Secretary** gave a briefing on the subject to the trade. His presentation slides were at Annex 4. He said that a proposal on posting Government information on business facilitation measures and licensing/regulatory requirements on CMA's website had been submitted to CMA for consideration in December 2013. **Ms SIMPSON** responded that CMA would discuss the proposal and she would keep in touch with BLG Secretary on the matter.

(Post-meeting notes: CMA replied on 4 March that the proposal was acceptable. BLG Secretary would follow-up with CMA as appropriate.)

BLG Secretary

Mobile application on Business Consultation e-Platform

24. The **Secretary** briefed the trade on the "Business Consultation e-Platform" mobile application (Apps) launched on the iPhone and Android platforms. His presentation slides were at Annex 5. The Apps served as an additional channel for accessing Government's regulatory proposals with business impact. The business community could browse and download regulatory proposals and related consultation information and offer their views and comments on the proposals directly to the bureaux/departments concerned. Moreover, there was a "Push Notification" function which alerted the user of new consultation exercises. The Apps were available for free download on the iPhone App Store by searching "consultation" and on the Google Play by searching "eabfu".

Date of next meeting

25. The **Secretary** would inform members of the date of the next meeting in due course.

Economic Analysis and Business Facilitation Unit
March 2014