

First Meeting of the Food Business Task Force of the Business Facilitation Advisory Committee

Formation of Food Business Task Force

The Food Business Task Force (FBTF) has been set up under the Business Facilitation Advisory Committee (BFAC) to review the regulatory activities including the licensing requirements and conditions and other related regulatory controls impacting on food business. The FBTF will meet bi-monthly to discuss the issues of concern to the trade, make suggestions for improvement to the relevant departments and report work progress to the BFAC periodically.

Review Programme

2. In October 2005, the trade had written to the Subcommittee to Study the Streamlining of Food Business Licensing under the LegCo Panel on Food Safety and Environmental Hygiene to urge for a review on the regulatory regimes including the licensing requirements and other related regulatory controls governing outside seating accommodation, factory canteen, liquor licence, etc.. The trade's concerns on the regulatory framework governing
..... outside seating accommodations are detailed at ***Appendix A***.

3. Members are invited to comment on the Review Programme and advise on the way forward.

Urge for a Review on the Licensing Requirements and Conditions for Outside Seating Accommodation and the Related Policies

Introduction

This paper reports on a letter sent by the trade in October 2005 to the Subcommittee to Study the Streamlining of Food Business Licensing under the LegCo Panel on Food Safety and Environmental Hygiene to urge for a review on the licensing requirements and conditions for outside seating accommodation (OSA).

Background

2. The scheme of OSA for food premises was launched in March 2002 in response to the market demand as outdoor dining has become more popular in Hong Kong. However, after the scheme has been implemented for nearly four years, the trade found that the licensing requirements and conditions for the scheme were too rigid and could not meet the actual demand. As the scheme is not supported by related policies of the Government, little progress has been made for this scheme, which should have boosted tourism in various districts. Instead, the trade suffered investment and financial losses. Operators have fears all the times and are worried that their licences may be suspended due to a breach of the licensing conditions.

3. In view of the above and as a Subcommittee to study the Streamlining of Food Business Licensing has been set up by the Legislative Council to explore different ways to streamline the licensing framework of various types of licences, operators of alfresco dining in several districts have collected opinions in this respect and wish that Members of the Subcommittee would reflect them to the Government. The trade hopes that the Government would review and improve the licensing requirements and conditions for OSA and the related policies as soon as possible.

A. Review the licensing guidelines to enhance flexibility

Hong Kong, being a small and densely populated place, does not have spacious open space everywhere as in some overseas countries. Moreover, the weather in Hong Kong changes according to the seasons; there are frequent heavy rain in summer

and strong northerly wind in winter. According to the licensing requirements stipulated by the Administration, no shelters other than movable sunshades are allowed in the OSA. But in most cases movable sunshades cannot stand strong wind and heavy rain and may overturn and collapse at any time, which would be dangerous. It is also stated in the guidelines that prior approval and consent must be obtained from the Building Authority for the construction of awnings or other supporting structures. But the vetting procedure for this is cumbersome and time-consuming. During the vetting period, the operators still have to pay rent and salaries, etc. This would definitely cause hardship to the small and medium enterprises which do not have sufficient capital. So, some operators choose to erect structures and start operation without prior approval.

The trade proposes to relax the licensing requirements in relation to the erection of sunshades and similar facilities and to provide more alternatives such as extendible awnings, etc. As for which types of awnings can meet the safety standard, the issue may be discussed separately.

Moreover, it is stipulated in the licensing conditions that the business hours of OSA should be confined to from 11 a.m. to 11 p.m. It causes much inconvenience to some food premises. Some members in the trade cited the example of quite a large number of people buying breakfast at Sai Kung in the morning before going to the countryside or going out to sea. The open air cafés and coffee shops in the vicinity could have opened earlier to cater for these customers. However, as the guidelines are rigid in stipulating the time limits of the business hours, the trade cannot adjust the hours according to the market needs. The trade suggested that it should be added in the licensing conditions that the business hours of OSA should be confined to 12 hours daily but with some flexibility provided for the opening hours on the condition that no nuisance is posed to nearby residents.

Though it is stated in the licensing requirements that, “having considered the merits and nature of business of each existing OSA case, relaxation may be granted on justifiable grounds”, many members in the trade pointed out that some officers, being afraid of getting into trouble, only did things by the book and often made excuses to reject the applications for relaxation. If the officer responsible for handling the case has been transferred to another

post, the application case may even be left unattended to. Therefore, the trade hopes that the Government would provide more choices and flexibility in the provisions, so that the officers can grant relaxation according to the provisions, and the trade need not be afraid all the time of being prosecuted for violating the regulations.

B. Integrated planning to take into account each district's particularities

In fact, one main objective of the scheme of OSA for food premises launched some years ago by the Government is to boost tourism and stimulate local economy. The catering trade approves of the scheme and supports it with action. However, the Government did not have integrated and detailed planning. Many proposed open-air cafés did not work out because of various reasons, such as objections raised by residents and landowners, their proximity to the main streets or sewers, etc.

Some operators of open-air cafés in Stanley pointed out that the Stanley Main Street is pedestrianised on holidays from 11 a.m. to 11 p.m., while the approved business hours of OSA are from 11 a.m. to 10 p.m. The hour difference shows that the Government does not have integrated planning.

Open-air cafés are popular among tourists. The OSA should best be situated at some major sights of the districts to benefit from the scenic views. However, as different districts have different particularities and structures, the Government should improve district coordination and planning, expedite the enhancement of supporting facilities, such as designating pedestrian zones in the vicinity on holidays, actively modifying land leases to allow landowners to change land use, setting up sunshades and wind-shielding facilities, thus facilitating the application of OSA licences. These are what should be done to promote local economy and leave wealth with the people.

C. Streamlining licensing procedures and increasing manpower

Applications for OSA licences involve a number of departments, e.g. Buildings Department, Lands Department and Planning Department. Complex problems of building structure, land use and environmental impact, etc. encountered by different

department cause complications to the approval procedures. Therefore, it may take several months or even several years to process an application.

Some members in the trade have pointed out that the application requirements for some districts where trial schemes of open air cafés have been implemented for a long time are more relaxed than those for the general OSA licences. Sometimes even the departmental officers who are responsible for approving the OSA licences are confused by the difference between the two. This has hindered applications for the licences.

As stated above, the Administration must improve the integrated planning of various districts and relax licensing requirements and conditions to expedite processing of the applications for OSA licences. Meanwhile, overlapping should be reduced while coordination and communication should be enhanced among various departments. Apart from holding case conferences on complex licence applications, the Administration should also put forward problem-solving options proactively so that the Food and Environmental Hygiene Department can provide one-stop licence services, saving applicants from the need to satisfy requirements of different departments simultaneously.

However, the trade is worried that the Government's fiscal restraint and staff streamlining policy in recent years would indirectly affect the efficiency of licensing. The Administration explained that it took over two months' time to process certain license applications mainly because these applications involved relatively complicated issues. For instance, the applicants failed to submit revised plans. Nevertheless, members of the catering trade pointed out that the officers responsible for their license applications often had to deal with many complicated cases at the same time. In this connection, they earnestly requested the Administration to review the manpower strength of the departments concerned on a regular basis and to increase manpower if necessary to expedite the licensing procedure to facilitate the food business.

Conclusion

3. In the face of the fierce competition in the market and the continued rise in rentals in recent years, the catering trade has been plagued by hardship. The frequent inspection by various departments just aggravated their hardship. The government should implement policies that aim at cutting red tape and streamlining procedures, review the licensing requirements and conditions of OSA and streamline the application procedures as soon as possible so that the trade could breathe a sigh of relief.

Outside Seating Accommodation Operators

30 October 2005