

**Twenty-sixth Meeting of
the Business Facilitation Advisory Committee**

***Agenda Item 3(a) : Report on the work of the
Wholesale and Retail Task Force***

Purpose

This paper reports on the work of the Wholesale and Retail Task Force (WRTF) since the last Business Facilitation Advisory Committee meeting held on 1 April 2014.

Work progress of WRTF

Public Consultation on the Enhanced Measures against Shop Front Extensions

2. The Home Affairs Department has consulted WRTF on the proposed enhanced measures against shop front extensions (SFEs) including –

- introducing a fixed penalty system as an additional enforcement tool to tackle SFEs more efficiently and effectively. It should help address the deficiency of the existing summons system, namely the long lead time of prosecution and light penalties carrying little deterrent effect; and
- enhancing the District Councils' role in assisting relevant departments to work out the criteria for determining the priority of enforcement against SFEs and advising which location(s) with SFEs should be assigned a higher priority in SFE enforcement action.

3. WRTF invited Mr Samuel Hui, Vice-chairman of Hong Kong General Chamber of Pharmacy Limited, to attend the meeting to express the views of his trade on the proposal. Due to the lack of loading zones in Hong Kong, loading/unloading have to take place at the curbside of the roads and goods need to be placed on pavements temporarily. In addition,

pharmacies often conduct promotional activities at shop fronts to attract customers. These promotions offer discount to consumers as well as create part-time employment opportunities. Mr Hui urges the Government to adopt a flexible approach towards the conduct of the above activities.

4. WRTF has expressed concern on the use of discretionary power by enforcement officers under the proposed fixed penalty system. Unlike traffic offences, enforcement against obstruction involves subjective judgment by enforcement officers, for example how much or for how long a SFE is allowed before it is regarded as an obstruction. WRTF suggests that enforcement officers should apply a test of reasonableness before issuing a fixed penalty ticket and that a proper appeal mechanism be put in place. In addition, clear guidelines should be provided to the business sector to facilitate their compliance.

5. WRTF supports the proposal in general, and requests the Government to conduct a business impact assessment, especially on SMEs, and consult the affected trades again when more details of the proposal are available.

Update on Implementation Progress of the Recommendation on Duration of Presence of Pharmacists in Authorized Sellers of Poisons

6. The Review Committee on Regulation of Pharmaceutical Products in Hong Kong has recommended, inter alia, that a registered pharmacist should be present whenever an authorized seller of poisons (ASP) is opened for business¹. At its meeting in October 2010, the then Retail Task Force (RTF) raised concern to the Department of Health (DH) that it would not be possible to implement the recommendation in view of the shortage of registered pharmacist in Hong Kong. It might also lead to a situation where small pharmacies would lose out in competing for limited pharmacists in the market. RTF urged the Government to ensure the availability of sufficient pharmacists before implementing the recommendation.

7. From the progress update by DH, members of WRTF note that the Government has not included the relevant provision in the Pharmacy and Poisons (Amendment) Bill 2014. WRTF requests the Government to consult the trade again should it decide to revive the proposal in future.

¹ The current requirement is that a registered pharmacist must be present in an ASP for not less than two-thirds of its opening hours.

Consultation on Draft Code of Practice for Holder of Wholesale Poisons Licence

8. The Pharmacy and Poisons Board (PPB) has invited WRTF to submit views on the draft Code of Practice for Wholesale Poisons Licence holders which aims to ensure standard of practice of the trade.

9. WRTF considers that individual small wholesalers may have compliance difficulties with the proposed requirement of reporting defective products and adverse drug reactions. They may not be familiar with the reporting mechanism and the circumstances under which they need or need not to make a report to DH. WRTF suggests DH should organize briefings to teach the trade on how to comply with this requirement.

10. The second issue is on the proposed requirement of obtaining a written order from a buyer for order verification. WRTF considers that public safety is of primary importance and one more step of verification can help minimize human errors. However, some small wholesalers, which has less bargaining power vis-à-vis their buyers, may have difficulties in complying with the proposed requirement if the latter insists on not issuing written order. WRTF urges the Government to further explore ways to facilitate the parties concerned to comply with the written order requirement. To resolve the issue in the long run, WRTF proposes the Government to set up a common electronic platform for all the buyers to place their orders to the respective suppliers.

11. The Secretariat has submitted WRTF's views to PPB for consideration.

Extension of the Environmental Levy Scheme on Plastic Shopping Bags

12. The relevant legislation for the extension of the Environmental Levy Scheme on Plastic Shopping Bags ("PSBs") to the whole retail trade has been passed at the Legislative Council and will come into operation on 1 April 2015. WRTF notes that, as submitted by WRTF to the Bills Committee on Product Eco-responsibility (Amendment) Bill 2013 for the Government's reconsideration, a PSB used to contain foodstuff that is in a frozen or chilled state will be exempted from the levy.

13. WRTF will invite the Environmental Protection Department for a briefing on the implementation details when ready.

Way forward

14. Members are invited to note the work progress of WRTF. The Task Force will continue to monitor the development of the above issues.

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