

Submission on

“Public Consultation on Management of Fixed Pitch Hawker Areas”

1. After the fire tragedy in Fa Yuen Street, the Hong Kong SAR Government (hereafter the “Government”) has not only stepped up law enforcement to improve the management of the fixed pitch hawker area in the short-term, but also suggested a list of remedial measures for public consultation¹. However, The Professional Commons (hereafter “The ProCommons”) has found many faults in the guiding principles of the consultation document. Firstly, the existing hawker policy has a high degree of consistency with the previous one which failed to appreciate the positive value of the hawkers, despite the changes in the socio-economic environment. Secondly, it is not appropriate for the Government to blame the fixed pitch hawkers for the fire tragedy and to impose the responsibilities for fire safety solely on them, which would have seriously affected the livelihood of hawkers. Thirdly, some of the policy suggestions are impractical, particularly those asking the hawkers to bear the responsibilities which are beyond reasonable limits.
2. The Government has made it loud and clear that the longstanding policy goal on hawkers is “gradually reducing the number of hawkers by natural attrition” (para. 1.2 of the consultation document). Therefore, the main recommendations of the consultation document, including changing the operation mode of the hawker business to reduce fire risks, requiring the hawkers to improve fire-fighting equipment in their own financial capacity, etc., would incur an extraordinary amount of costs for compliance, making it impossible for many fixed pitch hawkers to continue their businesses. Apparently, these policy recommendations are the mentality of a bygone era. Other proposed measures like stricter law enforcement, introduction of the system for the cancellation of hawker licenses, extension of the surrender scheme of license, etc., also aim at reducing the number of hawkers.
3. Following the review of hawker licensing policy in 2008, the Government has allocated and consolidated considerable number of vacant fixed pitch stalls on one hand, and re-issued a small number of fixed pitch hawker licenses to “bootblack hawkers” (i.e. shoe shiners), tobacco hawkers and tradesman (i.e.

¹ Food and Health Bureau, Food and Environmental Hygiene Department, “Public Consultation on Management of Fixed Pitch Hawker Areas,” February 2012.

those are engaging in skilled art and crafts business) on the other hand (see para. 2.4 to 2.19 of the consultation document). However, it has never been the intention of the Government to rectify management problem as well as to get to the bottom of the causes underneath the irregularities, such as the stall area being too small, making it difficult for strict compliance; lack of transfer mechanism for hawker license resulting in the irregularities for “phony assistants, rental of hawker licenses for real”, etc.

4. In the light of this, The ProCommons believes that the authorities concerned should seize the opportunity and conduct a comprehensive review for the regulatory policies of hawking activities, as well as the licensing system and the planning for hawker areas in a bid to facilitate the healthy development of hawking activities.

Setting a “Reasonable” Quota for Hawkers

5. After the persistent enforcement and control from the Government, the number of licensed hawkers has significantly reduced from 20,000 in the 1980s to approximately 7,000 currently, whereas the environmental hygiene of the society has greatly been improved. The ProCommons is of the view that hawking activities is an important part of local culture. Meanwhile, it is an important constituent of our community and grassroots economy. The society as well as the authorities should recognize their contributions to the local community. For citizens striving for self-reliance, it should be affirmative that their efforts are acknowledged by providing them with adequate support.. In view of such proposition, the ProCommons objects the Administration being obstinate to axe the number of hawkers as reiterated by its policy objective. Moreover, the Government should incorporate the view of community planning and economic diversity into the course of policy making, therefore setting up more hawker areas in different districts upon deliberation with the local communities on the number of hawkers that could be accommodated in respective regions.

Putting in Place a Transfer Mechanism of Hawker Licenses

6. In the proposition that the number of hawkers should be maintained at a “reasonable” level, the Government should put in place a mechanism to ensure a smooth transfer of hawker licenses. Given that the newly issued

hawker licenses in the future could not be passed on and is non-transferrable through private deals, the Government may consider setting a time limit for these licenses as an effective means to facilitate the transfer of the licenses. In addition, a more formalized application procedure for hawker licenses should be put in place. More specifically, the application mechanism should be activated once the returned or expired licenses or the vacant stalls have reached a certain level. In fact, there are still somewhat two thousand unlicensed hawkers in Hong Kong, even the authorities are acting vigorously against them. The authorities concerned should try to assist in those who intend to engage in hawker business so that their business could be operated in a legitimate and proper manner.

Moderate Expansion of Fixed-pitch Stall Area

7. It should be of equal importance that hawker management should be improved, in which provision of a better business environment for the hawkers is necessary. One of the means to facilitate the development of hawkers is to moderately expand the floor area of fixed pitch hawker stalls. As the consultation document has suggested, the majority of fixed pitch hawker stalls are 3 feet x 4 feet in size (para. 3.3 of the consultation document), often there are cases where hawking business was placed outside the boundaries of the pitch. Some years ago, the authorities have arranged the merge of the vacant stalls in the rear with those in the front row for operation. Although this helps improve the crowded situation of the stalls, the problem lies on the fact that the total number of hawker licenses has reduced to the extent that it is becoming a rarity in open market. This has indirectly created the situation in which the violations of the regulations, such as the illegal sub-let of the stalls as well as the exacerbation of "phony assistant, rental of hawker licenses for real". Therefore, a modest increase of fixed pitch hawking area is the best means that resolves the problem.

More Transparency of the Discretionary Business Area

8. According to the consultation document, the Food and Environmental Hygiene Department has the discretion to allow stall hawkers to display their goods outside the approved area during business hours, as long as no obstruction to passageways and emergency vehicular access is created, and

the placement of equipment outside hawker stalls is on a limited basis. Although these discretionary arrangements should be warmly received, they should not be perceived as long-term solution as it failed to provide a stable environment that supports the livelihood of the hawkers. In sum, the hawkers are highly vulnerable under the existing practice as the Government is legitimate to withdraw these discretionary measures. To this end, it is regarded by The ProCommons that the best means to resolve the issue is to release the discretionary arrangement on business area in the work protocol of respective hawker areas, so that the hawkers would be able to fully aware of the rules and regulations for compliance.

Relocation of Hawker Stalls in Front of Staircase Discharge Points of Buildings should be the Last Resort

9. It is highly controversial that no stalls should be located within the radial distance of six meters in front of the staircase discharge points of buildings, and therefore have to be removed. In the light of this, the Fire Services Department should also explain the responsibilities of the shops at the two sides of the staircase instead of simply requiring the hawkers to solely bearing the burden. Secondly, it is questionable the designation of radial distance of six meters is far too large, especially in the case in which other fire-fighting equipment or fire prevention measures are readily available. The possibility of scaling down the radial distance should also be taken into consideration. It is not enough for the Department to state its stance in a simplistic way. Instead, detailed explanation is a must to win the public support. In short, excessive reduction in the number of fixed pitch hawker stalls would adversely affect the livelihood of the hawkers as well as the attractiveness of the whole hawker areas. From a priority setting perspective, the relocation of stalls should only be considered as the last resort.

Proposal on Fixed Structures is Impractical.

10. The most controversial proposal as suggested in the consultation document is the requirement for the construction of fixed structures in street areas, which would tremendously narrow the pavement. Even worse, the shops in buildings nearby would need to face a great piece of wall that would also block air circulation seriously. Should such measures be implemented, a major public outcry would be anticipated. More importantly, the

construction of the fixed structures would change the basic functions of the streets concerned. The Government must indicate clearly whether it is willing to accept the policy consequences brought about from such changes. If not, the proposal is merely a bargaining chip that forces the stall operators to conform the official suggestions. We, of course, support the fixed pitch stall should be made of fire-resisting materials, but not on any measures that are overkill in nature.

Sprinkler Systems as the Major Fire Safety Measures

11. The ProCommons is of the view that a relatively full-scale street sprinkler system is an effective measure for the improvement of the fire safety of the buildings in the vicinity of the hawker areas. The street sprinkler system should have the following components: (1) the installation of fire sprinkler system at the top of the staircase exits to control the direction of fire, to prevent the smoke from flowing toward the premises through the stairs, and to reduce the temperature of the evacuation staircase; (2) the installation of a series of fire sprinkler system in the central location of the canopies of the buildings to provide a fire escape route; and (3) the installation of water curtain type of fire-fighting system on the edge of the canopies of the buildings to stem the fire in the fixed pitch hawkers stalls from spreading.

Maintain the Stalls Appearance and Mode of Operation

12. The appeal of the hawker areas lies in its uniqueness and diversity while hawking activities in its flexibility and creativity. In the light of this, imposing a single form of rigid management model will simply destroy this form of fragile economy. The ProCommons believes that whether the “house” of the fixed pitch hawker stalls is in the form of a fixed pitch, or “dismantling of stalls and removal of all commodities after close of business at night” are both acceptable. The key is the hawkers themselves would have considered that those options are operational, rather than applying a single model in all hawker areas. Furthermore, the authorities should allow the hawkers to store goods overnight in fire-resistant structures and sealed stalls. In addition, the stall owners should also be allowed to retain the equipment they always use, such as the metal framework, the metal box with no inventory or metal carts and so on, in the areas out of the approved range overnight. It should be noted that the fire may cause hawkers tremendous losses. Hence, the

Government should not assume that they are not serious on fire prevention measures. In short, it is not necessarily for the Government to adopt such a drastic and draconian strategy.

A Clear Account on the Location of Emergency Vehicular Access

13. It is stated in the consultation document that if a carriageway on which hawker stalls are located has been designated as emergency vehicular access, a clear width of at least six meters should be maintained so as to cater for the passage of fire engines and the operation of aerial ladders / platforms. The authorities should make a clear account to the public as soon as possible, on which road(s) in the hawker areas has been defined as the emergency vehicle access, hence allowing the affected hawkers to be better prepared.

Installation Cost of the Street Sprinkler System should be Paid from the Public Purse

14. The ProCommons regards that, the operation mode of licensed hawkers is similar in nature to the business of the licensed stall tenants in public markets. In fact, both types of hawkers are an integral part of the grassroots economy, which are also the products of government policies. Therefore, both should get similar treatments and assistance from the Government. Despite the emergence of licensed fixed pitch hawker areas can be traced back to the 1980s, the Government has refused to provide infrastructure support for the improvement of environmental and fire safety under the excuse that the hawker areas are temporary in nature. Instead, the Government provides a range of support to stall tenants in public markets in recent years, such as renovating the market and installing air-conditioners by public funding, and allowing the introduction of services industries to reduce the vacancy rate. The ProCommons is of the view that the Government should provide fair treatment to licensed hawkers in both hawker areas and public markets. In view of the safety consideration, the Government should help install the street sprinkler system in hawker areas. There are two options for its implementation: The first is the provision of public funding for the installation of the sprinkler system, which would help the Government to further strengthen the management of hawker areas. It is suggested by second option that the District Councils should make themselves responsible through the District Minor Works Programme on the ground that hawker activities

have boosted the vibrancy of the local economy. These two approaches are what public interest can be served, whatever it takes.

Extension and Expansion of the Hawker Areas

15. From a practical point of view, it would be necessary to moderately increase the number of hawker areas in order to meet the possible relocation of hawker areas. The Government should not shy away from considering the possibility of additional hawker areas. In fact, there are many places in the New Territories where local economies could be flourished, as long as the development of such economies could be integrated with the basic needs of the people in the locality. The formation of new hawker areas with specialties of their own is by no means an impossible task. The key is whether the Government has the determination to do.

Conclusion

16. The fire tragedy in Fa Yuen Street has not only aroused the concerns over the fire safety issues in hawker areas, it has also highlighted many problems of the existing hawker policy, ranging from licensing system, regulations and enforcement, design of the fixed pitch hawker stalls, to the planning of hawkers areas. The Government should not insist on perceiving hawking activities as a temporary phenomenon. Instead, it should ditch its shortsighted mentality in policy making. Through reviewing the hawker policy in a more comprehensive manner, the Government should put in place a holistic set of policies that could facilitate the healthy development of hawker activities.

The Professional Commons
7th May, 2012