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Panel on Health Services

**Updated background brief prepared by the Legislative Council Secretariat
for the meeting on 18 May 2015**

Tobacco control

Purpose

This paper summarizes the major views and concerns of Members on issues relating to tobacco control measures since the Fourth Legislative Council ("LegCo").

Background

2. According to the Administration, tobacco dependence is the single most important preventable risk factor responsible for main causes of death and chronic diseases, including cancers and cardiovascular diseases. It is the established tobacco control policy of the Government to discourage smoking, contain the proliferation of tobacco use and protect the public from second-hand smoke as far as possible. To achieve this, the Administration adopts a step-by-step and multi-pronged approach comprising legislation, taxation, publicity, education, enforcement and smoking cessation programmes. With the implementation of various tobacco control measures since the early 1980s, the volumes of duty-paid cigarettes have decreased from over 7 billion sticks in 1989 to around 3.1 billion sticks in 2013, and the smoking prevalence has reduced from 23% in early 1982 to 10.7% in 2012.

3. The Smoking (Public Health) Ordinance (Cap. 371) provides a legal framework on tobacco control for restricting the use, sale and promotion of tobacco products in Hong Kong. The Ordinance was amended by the Smoking (Public Health) (Amendment) Ordinance 2006 in October 2006 to, inter alia,

expand statutory no smoking areas ("NSAs") and strengthen the regulation over advertisement and packaging of tobacco products. At present, statutory smoking ban covers all indoor workplace and public places, and many outdoor places and public transport facilities ("PTFs"). The Fixed Penalty (Smoking Offences) Ordinance (Cap. 600), which was enacted in July 2008 and came into operation in July 2009, prescribes that persons smoking in NSAs and on public transport carriers are liable to a fixed penalty of \$1,500. The Tobacco Control Office ("TCO") set up under the Department of Health ("DH") in 2001 is responsible for, inter alia, implementing and enforcing the tobacco control legislation, particularly the smoking ban in statutory NSAs.

Deliberations by Members

4. The views and concerns expressed by Members at various forums, including the Panel on Health Services, the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011 and the Bills Committee on Dutiable Commodities (Amendment) Bill 2014, on issues relating to tobacco control are summarized in the following paragraphs.

Packaging of tobacco products

5. Members noted that all packaging of tobacco products had been required to display pictorial health warnings with effect from October 2007. The health warning had to cover at least 50% of the surface of packet or retail container of cigarettes, cigar, pipe tobacco and cigarette tobacco in accordance with the prescribed forms and pictures. Making reference to the practice in Australia where cigarettes were required to be sold in olive green packets and all brand names printed in a standard font size and style, some Members asked whether the Administration would consider introducing plain cigarette packaging in Hong Kong. The Administration advised that it would take into account recommendations of the World Health Organization ("WHO") and overseas experience in considering the introduction of additional measures to strengthen its tobacco control efforts.

Designation of PTFs as NSAs

6. On the extension of the smoking ban to PTFs in open air in order to further reduce the adverse impact of passive smoking to passengers of public transport, Members considered it necessary to have a clear delineation of NSAs at these PTFs to avoid disputes. There was a suggestion of using a different colour to road mark the boundaries of these NSAs. Members also considered that merely posting on the website of TCO all plans of the designated PTFs

could not effectively achieve the aim of reminding the public, in particular the smokers, of the areas where smoking was prohibited.

7. The Administration advised that having taken into account the views of the Transport Department and the public transport operators that adding another road marking to the existing ones in PTFs would cause confusion to motorists, passengers and pedestrians, the option of road marking to delineate NSAs at PTFs was not pursued after consultation. Conspicuous no-smoking signs would be erected at the boarding and waiting areas of PTFs in open air, as well as the areas that passengers would pass by in the course of accessing and interchanging between different modes of public transport as statutory NSAs. Publicity activities would also be carried out by TCO to inform the public of the implementation of smoking ban in PTFs in open air and to promote compliance. Notwithstanding the Administration's explanations, some Members considered that road marking to delineate NSAs at PTFs should at the very least be made to the pedestrian areas.

Enforcement actions taken by TCO

8. There were views that TCO should conduct surprise inspections to statutory NSAs and step up publicity efforts to raise public awareness on the implementation of indoor smoking ban in food premises, in particular those located in popular tourist areas. The Administration advised that TCO received about 18 000 complaints about smoking offence and conducted over 27 000 inspections of various venues in complaints in 2013. Among the some 8 000 fixed penalty notices issued during the period, around 300 notices were issued to tourists. Publicity materials on smoking ban in statutory NSAs were available at various boundary control points.

9. Concern was raised about the adequacy of manpower in TCO to handle complaint calls at the TCO hotline and follow up the complaints. According to the Administration, there were about 100 tobacco control inspectors responsible for carrying out frontline enforcement duties. The TCO hotline was manned by the Government's Integrated Call Centre. Its performance target was to answer 80% of the calls within 12 seconds. All complaints received would be referred to TCO's tobacco control inspector in charge of the district immediately after the calls. Based on the information received in a complaint, surprise inspections on these premises might be conducted at specific time in the future. To enable the taking of more swift actions upon receipt of complaints, consideration would be given to referring those complaints relating to venues managed by Government departments to both the tobacco control inspector in charge of the district and the venue managers of the relevant Government departments. TCO would provide guidelines for relevant venue managers on how to handle smoking-related complaints and offences.

Enforcement against illicit cigarette activities

10. Noting that there was a decrease in the quantity of duty-paid cigarettes particularly after the increase in tobacco duty, Members were concerned that some smokers might switch to consuming illicit cigarettes, many of which were counterfeit cigarettes. Question was raised about the measures taken by the Administration to combat against illicit cigarette smuggling and peddling activities, including sale of illicit cigarettes via Internet.

11. The Administration advised that the Customs and Excise Department ("C&ED") had been working closely with the Mainland in order to strengthen intelligence collection. Efforts were made to step up boundary control to stop the inflow of illicit cigarettes at source and strengthen urban sweeping operations against illicit cigarettes activities at black spots. In addition, C&ED had set up specialized task forces to conduct in particular intelligence analysis and law enforcement against peddling via telephone orders and online sale of illicit cigarettes. It was considered that the measures to combat illicit cigarette activities were effective as reflected by the reduction in the number of public complaints on the sale of illicit cigarettes.

Smoking prevention and cessation services

12. Members were concerned about the increasing prevalence of smoking among the youth. They urged the Administration to allocate more resources on publicity to enhance the public awareness on the harmful effects of smoking and promote smoking cessation. There was a suggestion that the Administration should adopt a public-private partnership approach in provision of smoking cessation services.

13. The Administration advised that the allocation for smoking prevention and cessation services had been increased three-fold from \$35.8 million in 2008-2009 to \$102.6 million in 2012-2013. A Smoking Cessation Hotline was operated by DH to provide general enquiry and counselling on smoking cessation. Clients who had the need would be referred for follow-up services, including counselling and provision of medication, in smoking cessation clinics operated by DH and the Hospital Authority. DH also subvented Tung Wah Group of Hospitals and Pok Oi Hospital to provide community-based smoking cessation services involving both Western and Chinese medicine, education for the public, training for health care professionals, and conduct research projects. This apart, DH had collaborated with the School of Nursing of the University of Hong Kong to operate a youth-oriented quit-line "Youth Quitline" to offer smoking cessation telephone counselling services to youth smokers aged 25 or

below. Efforts had also been made by the Hong Kong Council on Smoking and Health to promote a smoke-free culture through the delivery of health talks at kindergartens, primary and secondary schools.

14. Query was raised about the effectiveness of the smoking cessation services as there had not been a significant drop in smoking prevalence in recent years. The Administration advised that the effectiveness of these services was measured against different sets of indicators, such as the number of service users and the smoking cessation rate. At present, the average smoking cessation rate at one year after treatment was at the level of 30% to 40%, which was comparable to that in overseas countries.

Increase in tobacco duty

15. The Financial Secretary had, in his 2014-2015 Budget, proposed to increase the duty on cigarettes by \$0.2 per stick (i.e. by 11.72%) with a view to bringing the proportion of tobacco duty to the retail price of cigarettes to about 70% so as to meet the minimum level recommended by WHO. The duty rates on other types of tobacco, namely cigars, Chinese prepared tobacco and all other manufactured tobacco except tobacco intended for the manufacture of cigarettes, would be increased by the same percentage. Members in general supported the proposal. Question was, however, raised about its effectiveness in reducing tobacco consumption.

16. The Administration advised that research indicated that a 10% increase in the retail price of cigarettes might lead to a drop of about 4% in tobacco consumption in high-income countries. Locally, the demand for smoking cessation services had increased by 50% after the last increase in tobacco duty by 41.46% (or \$0.5 per cigarette stick) in February 2011. The overall smoking prevalence had subsequently dropped from 11.1% in 2010 to 10.7% in 2012. On some Members' concern that illicit cigarette activities might become more rampant as some smokers would switch to consume illicit cigarettes after the increase in tobacco duty, the Administration advised that illicit cigarette activities had reduced in scale and magnitude as a result of the robust enforcement actions taken by C&ED in the past few years.

Latest developments

17. The number of local smokers using electronic cigarette ("e-cigarette"), which is an electronic nicotine delivery system to deliver an aerosol or vapour for users to inhale by heating the solution therein, has been increasing in recent years. At the Council meeting of 22 October 2014, an oral question was raised

about the regulation of e-cigarettes. According to the Administration, the main constituents of the solution of e-cigarette might include nicotine, propylene glycol, and possibly glycerol and flavouring agents. Under the Pharmacy and Poisons Ordinance (Cap. 138) ("PPO"), e-cigarettes containing more than 0.1% of nicotine was regarded as pharmaceutical product and had to be registered with the Pharmacy and Poisons Board before sale or distribution. In addition, nicotine was a listed Part I poison under PPO. Possession or sale of unregistered pharmaceutical product, and the possession or sale without authority of Part I poison, both constituted offences. There were currently no nicotine-containing e-cigarette products registered as pharmaceutical products in Hong Kong. According to the Smoking (Public Health) Ordinance, smoking of e-cigarette in a NSA was also an offence.

18. The Administration will brief the Panel on 18 May 2015 on the progress of tobacco control measures, its legislative proposals in relation to health warnings on tobacco products and smoking ban at bus interchange at tunnel portal areas, and its position on proposed regulation of e-cigarettes.

Relevant papers

19. A list of the relevant papers on LegCo website is in the **Appendix**.

Relevant papers on tobacco control

Committee	Date of meeting	Paper
Panel on Health Services	20.4.2009 (Item V)	Agenda Minutes CB(2)1783/08-09(01) CB(2)1876/08-09(01)
Panel on Health Services	12.4.2010 (Item IV)	Agenda Minutes
Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011	--	Report of the Subcommittee on Public Revenue Protection (Dutiable Commodities) Order 2011 to the House Committee meeting on 15 April 2011
Panel on Health Services	13.2.2012 (Item V)	Agenda Minutes CB(2)1367/11-12(01)
Bills Committee on Dutiable Commodities (Amendment) Bill 2014	--	Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 2014 tabled at the Legislative Council on 21 May 2014
Legislative Council	22.10.2014	Official Record of Proceeding Pages 612 - 623 (Question 5)