

## LCQ20: Food safety issues concerning online food ordering platforms

Following is a question by the Hon Jimmy Ng and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (November 21):

Question:

In July this year, the Centre for Health Protection announced that seven persons had fallen ill after consuming takeaway food from a food premises. It was reported that the food in question was bought from that food premises by an online food ordering platform upon receiving orders from its customers, and then collected by the customers within a specified time at a designated pickup point set up by the platform on the street. Some members of the public are concerned that as online food ordering platforms are currently not subject to regulation, it is difficult to ensure that the food is stored at a proper temperature and free from contamination during transportation and while awaiting collection. In this connection, will the Government inform this Council:

(1) whether it has compiled statistics on the respective current numbers of (i) operators selling non-prepackaged food online without physical premises and (ii) online food ordering platforms;

(2) of the number of complaints received by the Government in the past three years concerning the quality of food sold by online food ordering platforms;

(3) given that currently food factories selling restricted food online must obtain relevant permits, and the licensing conditions include certain regulations about food safety (e.g. the food must be obtained from lawful sources and stored at a proper temperature at all times, and the permittees must take measures to prevent the food from cross-contaminating during transportation), whether the Government has plans to expand the scope of such permit system to cover (i) online food ordering platforms and (ii) the various types of non-prepackaged foods in order to ensure food safety; if so, of the details; if not, the reasons for that;

(4) whether it will use the Measures for the Supervision and Administration of Food Safety in Online Catering Services promulgated by the China Food and Drug Administration as a blueprint for regulating issues relating to food safety of online food ordering platforms; if so, of the details; if not, the reasons for that; and

(5) given that currently various online food ordering platforms have posted on their websites limitation of liability clauses (e.g. they are not liable for the quality of food supplied by a third party, and the amount of compensation payable to a customer is capped at the value of the order),

rendering it difficult for customers to seek reasonable compensation, whether the Government will consider establishing a mechanism to protect the consumer rights and interests of those customers; if so, of the details; if not, the reasons for that?

Reply:

President,

E-commerce is getting more and more popular, including food transaction through the Internet, mobile applications or social media platforms (hereafter referred to as "online food sale").

Currently, food safety and food trade operations are regulated in various aspects under the laws of Hong Kong. Any person who undertakes business relating to producing, trading, importing or distributing food must meet the requirements of relevant legislation, irrespective of whether the business is conducted in physical premises, or through any means of transactions (including face-to-face, phone, electronic media, etc.).

The Public Health and Municipal Services Ordinance (Cap. 132) stipulates that all food for sale for human consumption in Hong Kong, whether imported or locally produced, must be fit for human consumption.

Under the Food Business Regulation (Cap. 132X) (the Regulation), any person who carries on any business which involves the preparation of food for sale for human consumption outside the premises, including online sale of the food concerned, must obtain a food factory license issued by the Food and Environmental Hygiene Department (FEHD). In addition, depending on the circumstances, modes of operation and the types of food for sale, operators of online food sale business must obtain relevant licenses or permits issued by FEHD. Any person operating online food sale business shall not sell any restricted food specified in the Regulation (including sashimi, sushi, oysters to be eaten in raw state, etc.) unless the Director of Food and Environmental Hygiene has granted written permission to the person to do so.

FEHD currently adopts the following licensing requirements to further safeguard the food safety of online food sale:

(a) FEHD requires that, with effect from February 2016, operators who do not have physical premises have to apply for permits if they sell restricted food online. Permits are issued on the conditions that the operators must provide particulars, such as the permit number, the type(s) of restricted food permitted for sale and the business address, on their websites and printed promotional materials for consumers' reference and verification on FEHD's website. In addition, the restricted food must be obtained from lawful sources and prepackaged by the suppliers before delivering to customers, the packages shall not be tampered with during transportation to prevent cross-contamination, and the food shall be stored at a safe and proper temperature at all times; and

(b) Operators of food premises which are holders of food business licenses or permits (except for Factory Canteen License, Cold Store License, Fresh Provision Shop License with endorsement(s) for sale of live poultry and/or processed fresh poultry carcasses and offal, and Permit to Sell Food by means of Vending Machine) must comply with the conditions stated in paragraph (a) above if they also carry out online food sale.

The list of food premises issued with food business licenses or permits, as well as operators without physical premises issued with permits for online sale of restricted food, are available on FEHD's website for public inspection.

Our reply to the various parts of the question is as follows:

(1) As at October 31, 2018, FEHD has issued 351 permits for online sale of restricted food. FEHD does not keep statistics on food premises issued with food business licenses or permits which are also involved in online food sale.

FEHD has been closely monitoring online food sale activities, including online traders that are not involved in food production and do not have physical premises. If FEHD suspects that any online food sale activity involves unlicensed business, or has doubts on the source and safety of the food concerned, it will conduct investigations, including decoy operations to collect evidence and information, and take appropriate actions.

(2) From 2016 to October 31, 2018, the Centre for Food Safety (CFS) of FEHD has received seven food complaints concerning ordering food through mobile applications and two cases of food poisoning referred by the Centre for Health Protection of the Department of Health concerning ordering food through mobile applications. CFS has taken follow-up actions immediately, including seizing food exhibits, taking food samples for testing, and taking appropriate actions.

(3) and (4) As mentioned above, food safety and food trade operations are regulated by the laws of Hong Kong in various aspects. We will continue to make reference to the practices of other places in monitoring and regulating online food sale, and consider further improving our regulation of online food sale platforms.

(5) According to the Commerce and Economic Development Bureau, existing laws in Hong Kong already impose controls on contracts relating to consumer transactions. For instance, section 7(1) of the Control of Exemption Clauses Ordinance (Cap. 71) stipulates that a person cannot by reference to any contract term or any notice given to persons generally or particular persons, exclude or restrict his liability for personal injury or death resulting from negligence. In addition, the Supply of Services (Implied Terms) Ordinance (Cap. 457) (the Ordinance) imposes terms to be implied in contracts for the supply of services. For example, section 5 of the Ordinance provides that where the supplier is acting in the course of a business, the supplier shall carry out the service with reasonable care and skill. Section 8(1) of the

Ordinance stipulates that if a party to a contract is a consumer, the other party cannot, by reference to any contract term, exclude or restrict any of his liability arising under the contract by virtue of that Ordinance. Depending on the actual circumstances of the cases concerned (including contract terms), consumers may lodge claims under the contract law and/or any other relevant laws.

Consumers may also seek assistance from the Consumer Council. The Consumer Council acts as a conciliator in handling disputes between consumers and traders. It assists traders and complainants to resolve their disputes, for instance, by trying to contact the traders with a view to helping both parties reach a mutually satisfactory settlement through conciliation.

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## LCQ12: Hospital accreditation programme

Following is a question by the Professor Hon Joseph Lee and a written reply by the Secretary for Food and Health, Professor Sophia Chan, in the Legislative Council today (November 21):

From April 2009 to January this year, the Hospital Authority (HA) had implemented a hospital accreditation programme (the accreditation programme) by phases in public hospitals, with a view to enhancing the accountability of hospitals for service quality and safety. In this connection, will the Government inform this Council whether it knows:

(1) the (i) expenditure incurred and (ii) manpower resources deployed (including the respective numbers of staff members and working hours involved, broken down by staff grade) in each of the past five years by public hospitals for implementing the accreditation programme, with a tabulated breakdown by name of hospital and the cluster to which the hospital belonged; and

(2) the service quality improvement initiatives identified, by HA in each of the past five years, during the implementation of the accreditation programme, and whether HA allocated, in respect of such initiatives, additional financial and manpower resources to the various public hospitals; if HA did, of the details with a tabulated breakdown by name of hospital and the cluster to which the hospital belonged; if not, the reasons for that?

Reply:

President,

My reply to the various parts of the question raised by the Professor

Hon Joseph Lee is as follows:

(1) The Hospital Authority (HA) has implemented in phases a hospital accreditation programme in public hospitals of all clusters since 2009, with a view to enhancing the quality of hospital services and patients' safety. Hospital accreditation is one of the HA's continuous quality improvement programmes. The recurrent funding for implementing the hospital accreditation programme and related continuous quality improvement programmes in the clusters is currently about \$60 million per year. The funding is mainly used for commissioning an internationally recognised accrediting organisation to conduct a series of independent and objective assessments of hospital performance, developing territory-wide accreditation standards, providing staff training, providing support for hospital clusters in their accreditation and improvement work, and funding daily expenses, etc. The hospital accreditation programme covers areas such as clinical services, logistics support and institutional management, and is a cross-cluster and inter-departmental continuous quality improvement programme that engages staff of various grades. Staff involved in the hospital accreditation programme are also engaged in other healthcare services. Hence, the HA does not have a breakdown of the relevant grades, number of staff and working hours involved in the programme.

(2) Hospital accreditation is one of the HA's continuous quality improvement programmes. The HA has put in place an established mechanism, under which hospital clusters are allocated additional funding each year through the annual planning exercise for increasing manpower and improving services according to the needs of individual clusters, which are determined by factors such as the population growth of the catchment districts, and manpower and service arrangements of hospitals. The HA does not have a breakdown of additional resources and manpower deployed for implementing the hospital accreditation programme.

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## **LCQ21: Implementation of Trade Descriptions Ordinance**

Following is a question by the Hon Holden Chow and a written reply by the Secretary for Commerce and Economic Development, Mr Edward Yau, in the Legislative Council today (November 21):

Question:

The Customs and Excise Department has been adopting a three-pronged approach (i.e. compliance promotion, law enforcement, as well as publicity and education) for implementing the Trade Descriptions Ordinance (Cap 362) (the Ordinance). Some frontline staff members have relayed that the Ordinance

has an extensive scope and the relevant workload is heavy, but the manpower for implementing the Ordinance has not increased in the past three and the current financial years, which has been maintained at 190 persons. As a result, their work pressure has been increasing day by day. In this connection, will the Government inform this Council:

(1) on law enforcement for the Ordinance, of the respective numbers of (i) prosecutions and (ii) convictions during the period from October last year to October this year;

(2) of the respective manpower currently deployed for performing work on (i) compliance promotion, (ii) law enforcement and (iii) publicity and education, in respect of the Ordinance; and

(3) whether it has plans to increase, in the next financial year, the staffing establishment for implementing the Ordinance?

Reply:

President,

The Government attaches great importance to protecting consumer rights. The Trade Descriptions Ordinance (Cap 362) (the Ordinance) prohibits specified unfair trade practices deployed by traders against consumers, including false trade descriptions, misleading omissions, aggressive commercial practices, bait advertising, bait-and-switch and wrongly accepting payment. The Customs and Excise Department (C&ED) is the principal agency to enforce the Ordinance. It has been adopting a three-pronged approach in enforcing the Ordinance proactively, which include conducting briefings for and visits to traders to tender advice and guidance to them on the legal requirements under the Ordinance and measures that should be taken for compliance; taking necessary and timely enforcement actions to combat unfair trade practices; and launching extensive publicity and education programmes to raise consumers' awareness of unfair trade practices through joint efforts with the Consumer Council.

My reply to the three parts of the question is as follows:

(1) Between October 2017 and October 2018, C&ED initiated 90 prosecutions under the Ordinance, among which 66 cases resulted in convictions, while court proceedings are in progress for 14 other cases.

(2) At present, 190 officers of C&ED are responsible for the enforcement of the Ordinance. Depending on the actual circumstances, C&ED will deploy manpower flexibly for compliance promotion, enforcement action as well as publicity and education work to implement the Ordinance. It is difficult to quantify the manpower deployed for each task separately.

(3) As the Ordinance covers a wide range of goods and services, in order to facilitate traders' compliance and optimise the use of enforcement resources, C&ED adopts a risk-based approach under which priority is accorded to handling cases that may have significant implications on consumers, the trades or the community at large. C&ED will review the manpower establishment

from time to time in view of the implementation situation of the Ordinance, and will ensure that the Ordinance is enforced effectively through manpower redeployment or application for additional resources according to established procedures when necessary.

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## **Hong Kong Flower Show 2019 commercial stalls to be auctioned on December 5**

Auctions of the Hong Kong Flower Show 2019 commercial stalls will be held on December 5 (Wednesday) at Lockhart Road Sports Centre on 11/F, Lockhart Road Municipal Services Building, 225 Hennessy Road, Wan Chai.

Bidders must be 18 years old or above and ordinarily resident in Hong Kong under section 2 of the Immigration Ordinance (Cap. 115). Any company incorporated in Hong Kong can also take part in the auctions. Each bidder can bid for one or more stalls.

Organised by the Leisure and Cultural Services Department (LCSD), the 10-day flower show will be held from March 15 to 24, 2019, at Victoria Park.

There are 55 commercial stalls in the showground. This year, the stall types and the categories of commodities to be sold have been optimised. The stall types are as follows:

- (1) Fast food stall (5 metres x 10m): 6
- (2) Fast food stall – floral cafe (5m x 10m): 1
- (3) Beverage stall (5m x 5m): 2
- (4) Agricultural produce stall (5m x 5m): 2
- (5) Photographic equipment stall (5m x 5m): 2
- (6) Book stall (5m x 10m): 1
- (7) Flower and gardening stall (5m x 5m): 38
- (8) Handicraft stall (5m x 5m): 3

Details of the auctions are as follows:

Auction time: 10am to noon

Stall types and upset prices:

- (1) Fast food stall: \$30,310
- (2) Fast food stall – floral cafe: \$30,310
- (3) Beverage stall: \$30,310
- (4) Agricultural produce stall: \$22,740
- (5) Photographic equipment stall: \$22,740
- (6) Book stall: \$15,500

Auction time: 2.30pm to 5.30pm

Stall types and upset prices:

- (1) Flower and gardening stall: \$22,740
- (2) Handicraft stall: \$22,740

Location and layout plans showing the commercial stalls to be auctioned are on display at the following venues:

- (1) All District Leisure Services Offices of the LCSD;
- (2) The Lift Lobby at 11/F, Leisure and Cultural Services Headquarters, 1-3 Pai Tau Street, Sha Tin; and
- (3) All Home Affairs Enquiry Centres of the Home Affairs Department.

For enquiries, please call 2601 8260 or visit [www.hkflowershow.hk/en/hkfs/2019/commercial.html](http://www.hkflowershow.hk/en/hkfs/2019/commercial.html).

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## **LCQ18: Impacts of microplastics on the ecosystem and human health**

Following is a question by the Hon Kenneth Lau and a written reply by the Secretary for the Environment, Mr Wong Kam-sing, in the Legislative Council today (November 21):

Question:

It has been reported that the findings of a number of overseas studies have revealed that microplastics (i.e. plastic pellets or flakes of less than 5mm in diameter or length, including plastic fibres as minute as having a diameter or length of only 1µm) are widely found in bottled water, tap water, seawater, edible salt, marine life and human waste. Some researchers have pointed out that microplastics, given their very tiny size, may enter human vascular and lymphatic systems, thereby jeopardising human health. In this connection, will the Government inform this Council:

(1) whether it has monitored on a regular basis the concentration of microplastics in the water bodies of the reservoirs and rivers of Hong Kong; if so, of the outcome; if not, the reasons for that;

(2) as the Government said in November last year that the Water Supplies Department had engaged consultants to conduct a review on the risks of plastic fibre materials on drinking water safety, of the progress of that review; whether it has evaluated the impacts of drinking water containing microplastics on human health; if so, of the details;

(3) whether it compiled statistics and conducted researches in the past three years on the concentration of microplastics in Hong Kong waters and marine



life; if so, of the details; if not, the reasons for that;

(4) of the microplastics removal capability of the sewage treatment processes in various sewage treatment works, as well as the relevant performance indicators; and

(5) as the authorities said in April this year that they had commissioned consultants to conduct a one-year study to examine the impacts of microplastics on Hong Kong's environment, and to gain an understanding of the bans imposed by places outside Hong Kong on personal care and beauty products containing microplastics, so as to formulate regulatory proposals applicable to Hong Kong, whether the authorities will, before the study is completed, introduce measures to reduce microplastic materials entering the natural environment; if so, of the details; if not, the reasons for that?

Reply:

President,

Microplastic pollution and the associated potential environmental impacts are a new global issue in recent years. Microplastics found in the aquatic environment have different identities and origins. They include microbeads arising from industrial production (e.g. as additives in personal care and cosmetic products (PCCPs)) and fragments from degradation of plastic products and waste. The common concern about microplastics is that it may be mistakenly consumed by aquatic organisms as food and toxic substances may also be adhered to or accumulated on its surface, thereby causing potential impacts on the ecosystem and human health through food chain transfer. There are opinions that preventive measures should be taken as soon as possible to reduce the release of plastic materials to the marine environment. We have been keeping a close watch on the latest development on the subject and, apart from conducting a 1-year consultancy study for developing appropriate control strategies targeting microbead-containing PCCPs, have also been collecting and studying relevant scientific research findings and data from various sources.

Our reply to the question raised by the Hon Kenneth Lau is as follows:

(1) At present, there has not yet been a unified standard or protocol in the scientific community for environmental monitoring of microplastics. Sampling and analytical methods as well as the types of plastic polymers being studied vary among individual research projects. Authorities in the international arena, such as the United Nations Environment Programme, Codex Alimentarius Commission (under Food and Agriculture Organization of the United Nations and the World Health Organization (WHO)) and European Food Safety Authority, etc, have not yet promulgated any relevant guideline or standard on microplastics. Under these circumstances, the Environmental Protection Department (EPD) has not conducted any routine monitoring of microplastics in Hong Kong's rivers and streams. To our knowledge, there has not been any government organisation announcing the routine monitoring of microplastics or releasing such data.

At present, the EPD is keeping abreast of the international and local development in environmental monitoring methods for microplastics. We are also actively participating in discussions on the standardisation of microplastic monitoring methodologies at symposiums organised by international and regional organisations (e.g. the Asia-Pacific Economic Cooperation) with a view to taking follow-up actions on the environmental monitoring of microplastics at a suitable juncture.

On the issue of microplastics in drinking water, the Water Supplies Department (WSD) has engaged consultants to collect information and carry out a study. It similarly shows that there is currently no internationally standardised method for testing microplastics in water samples, and no drinking water standard on microplastics has been adopted by any overseas jurisdiction. Furthermore, the WHO has not yet included microplastics in its Guidelines for Drinking-water Quality as health-related parameters that need to be monitored. In these circumstances, the WSD has not conducted any routine monitoring of microplastics at local reservoirs or water gathering grounds. Nevertheless, the WSD will keep in view related international development. If researches do show that microplastics will pose a risk in drinking water safety, the WSD will work with experts in the field and consult relevant government departments on the inclusion of microplastics as one of the monitoring parameters and formulation of corresponding measures.

(2) According to the risk assessment conducted by the WSD's consultants, although international studies on microplastics in drinking water are still at an early stage, the current outcome reveals that microplastics (including microplastic fibres) are ubiquitous in the environment, and drinking water as a medium only accounts for a very small part of the total human intake, as compared to other exposure routes including food and consumable products (e.g. clothing, cosmetics and skin care products, toothpaste, shower gel, etc). Therefore, the consultants consider that even if microplastics are present in drinking water, it will not constitute a major health risk.

(3) In the absence of a standardised monitoring method and protocol as mentioned in (1), the Government has not conducted any statistical analysis or research study on the concentrations of microplastics in Hong Kong waters and marine organisms in the past three years. Nonetheless, we are aware of local academic research studies in recent years reporting that microplastics do exist in various locations in Hong Kong waters, in concentrations not higher than others places and presenting relatively low levels of potential environmental impact. Through various channels including the Environment and Conservation Fund, the EPD will subsidise and encourage local academic institutions to conduct relevant research projects with the aim of gradually building up the local scientific database on microplastics.

(4) The Drainage Services Department operates sewage treatment works to remove pollutants for meeting effluent quality standards as stipulated in Discharge Licences issued under the Water Pollution Control Ordinance. The current effluent quality standards do not cover microplastics. However, as over 90 per cent of sewage in Hong Kong is receiving chemically enhanced primary treatment (CEPT) or secondary treatment before being discharged, it

is envisaged that a significant portion of the microplastics in raw sewage should have been removed along with other pollutants during the treatment process. Overseas open literature has demonstrated that microplastics removal rate in CEPT plants is about 70-80 per cent, and is even higher for secondary treatment works.

(5) Apart from the one-year consultancy study, the EPD has been implementing multi-pronged measures to reduce plastic waste generation at source and curb their release to the sea with a view to alleviating its impacts on the marine ecosystems. For example, we held a "Plastic Free Beach, Tableware First" campaign at all public beaches this summer to encourage members of the public and eateries in the vicinity of the beaches to avoid the use and distribution of disposable plastic utensils. In the coming year, the Government will take the lead to implement green procurement policies including avoiding disposable plastic tableware of single use. Specific measures will include: prohibiting the provision of plastic straws and polystyrene food containers in premises serving government staff; requiring the restaurant operators at certain government premises to avoid the use of disposable tableware as far as practicable in new or renewed contracts; working together with the catering trade to encourage less use of disposable tableware for promoting waste reduction at source.

Furthermore, since the set-up of an inter-departmental working group for cleaning shorelines in 2012, additional resources amounting up to HK\$100 million per year have been allocated for strengthening the cleanup of marine refuse, patrol and enforcement against littering at sea, and also providing supportive facilities for preventing refuse from entering the sea. For examples, more waste recycling bins are provided at various coastal locations including piers, landing points, waterfront areas, etc; more than 190 water dispensers are set up at coastal areas including beaches, water sports centres, promenades and waterfront parks to encourage citizens to bring their own water bottles and avoid buying drinks in single-use plastic bottles. The Government has also been promoting clean shorelines and waste reduction at source through publicity and education activities, the Clean Shoreline Engagement Platform as well as the Environment and Conservation Fund.