

1 April, 2014

To: Dr Leong Che-hung
Chairperson of the Standard Working Hours Committee

Dear Dr Leong,

The Hong Kong General Chamber of Commerce would like to express its gratitude to the Standard Working Hours Committee's invitation to attend the consultation meeting on February 13, 2014, which allowed us to express our views on standard working hours. The Chamber would like to take this opportunity to submit our views on the proposed legislation on standard working hours.

The Chamber opposes legislating standard working hours, because we believe that legislation is a blunt instrument and it will not solve the problem of long working hours. If the main objective of the suggested legislation is to ensure that employees are fairly compensated for working overtime, then the wages of our grassroots workforce have already been looked after since the introduction of statutory minimum wage. Revising outdated policies or laws in response to prevailing trends may help our market cope with economic changes in certain situations. However, over-regulation will risk lowering the flexibility of the market mechanism, and in the long term undermine Hong Kong's competitiveness. Legislation on standard working hours undoubtedly falls into this category.

The implementation of standard working hours will greatly constrain the flexibility of businesses' operations. When the economy is strong, companies can adjust to the changes, but when the economy goes south and business dwindles, employers will not have the flexibility to allocate their manpower effectively due to legal constraints. Companies may have little choice but to cut headcount or even close down. Consequently, both employers and employees would suffer.

The public discussion appears to have sometimes confused the concept of standard working hours with maximum working hours. Even with standard working hours, the problem of long working hours still exists. Since the operation models and nature of industries vary, it is impossible to have one standard to suit all sectors' needs. Moreover, there is so far no international standard on working hours. While overseas legislation on standard working hours aims mainly at the manufacturing sector, Hong Kong's economy is predominantly services-oriented, which demands a higher flexibility in manpower deployment. Hong Kong has thrived with its flexible labour force, and under the current system, some jobs require long working hours. Meanwhile, the issue of overtime compensation for some hourly-paid jobs has been addressed since the introduction of statutory minimum wage.

Moreover, some jobs, such as drivers, do not have fixed working hours. There are also jobs that require long working hours due to their job nature. For example, airline crews and aircraft maintenance staff are often subject to delays in flight arrivals and departures. Similarly, those offering consultancy and financial investment services to clients around the world also have to deal with different time zones. These are only a few examples that show how employees in various sectors, grassroots workers and professionals alike, are required to work irregular hours. Their employers usually have a flexible work arrangement in place to cope with different needs.

The 300,000 odd SMEs are the backbone of Hong Kong's economy and they account for more than 98% of all businesses, employing about 1.2 million people. Their importance to our economy is undisputed. With our SMEs already struggling to cope with the loss of talent, increasing costs and cash-flow constraints, standard working hours legislation will deliver a double blow to them.

The issue of long working hours is due to the severe labour shortage, and the solution to that problem is increasing our labour force. According to Government statistics released in February, Hong Kong's unemployment rate stood at 3.1% in the November 2013 to January 2014 quarter, down slightly from the previous quarter, while underemployment fell to 1.3%. Total employment increased to 3,764,800, hitting a new high, while the number of unemployed persons declined for the fifth consecutive month. The unemployment rate edged down to the lowest level since December 1997-February 1998. The underemployment rate likewise fell to a 16-year low.

Given Hong Kong's current acute labour shortage, stipulating standard working hours will only make it more difficult for companies to hire staff. Moreover, overseas experience shows that standard working hours legislation generally forces employers to hire more part-time or casual employees, which will fragment jobs and exacerbate underemployment. With our tight labour supply, part-time and casual vacancies will not be attractive enough to lure workers to supplement our labour force. Until the acute labour shortage is addressed, we do not believe introducing legislation on standard working hours will solve the issue of long working hours.

Currently, the construction, elderly care, retail and catering sectors are very severely affected by labour shortages. With various major infrastructure and public housing projects in the pipeline, demand for labour is expected to continue to rise, especially for low-skilled workers. Companies operating in the Hong Kong International Airport are finding it extremely difficult to hire employees. If the third runway is to be built, the number of airport staff required will surge from some 60,000 at present to 140,000. Given the aging population and the downturn in labour supply in Hong

Kong, where will the workers that businesses urgently need come from? Labour shortage is a pressing issue that we need to address. Discussing legislation on standard working hours during these difficult times is unreasonable.

Some critics accuse employers of forcing employees to work long hours. However, in a free market economy, many workers work long hours simply because it is necessary for their job. The arrangement of overtime is also agreed upon by both employers and employees, and employees receive appropriate compensation for overtime. Some employees work longer hours as they want to increase their income. For instance, commission-based salespersons mostly prefer longer working hours so that they can earn more. The longer they work, the more they earn. However, with the introduction of standard working hours, companies will be forced to split jobs into two-shifts, e.g. 8 hours + 4 hours. Due to various factors, such as commuting times and travel expenses, companies will find it more difficult to hire staff (especially grassroots workers living in remote areas) to work short shifts. For property management staff who are generally split into two shifts (about 12 hours per shift) or three shifts (about 8 hours per shift), their wages are paid based on the number of hours worked. Workers on a 3-shift system may need to work overtime, and they usually get paid for the overtime worked.

To conclude, we reiterate that we oppose legislating standard working hours, because we believe it will not alleviate the problem of long working hours. Instead, it will risk lowering the flexibility of the labour market, as well as constraining Hong Kong's competitiveness and economic development. In a free market economy, rather than standardizing working hours through legislation, employers and employees should draw up contracts based on the needs of individual cases, stipulating job requirements, working hours and arrangements for over-time pay.

Compared to statutory minimum wage, the impact of standard working hours will be extremely far-reaching for both low-income employees and the entire 3 million-plus workforce, as it is a very complicated issue. In addition to conducting extensive consultations with stakeholders, the Government should also conduct a comprehensive regulatory impact assessment to study the economic impact of legislating standard working hours under different scenarios, and the ripple effect on different sectors. These will provide the basis of comparison and analysis. For instance, the "Report of the Policy Study on Standard Working Hours" pointed out that around 80,000 lower-skilled workers were not paid overtime. The Standard Working Hours Committee should first identify what industries, job categories and positions these workers were in and to conduct further studies. Only when the root cause has been found can targeted policy initiatives be formulated to address the issue.

Yours sincerely,

Shirley Yuen
HKGCC CEO