

HKFPE Position Paper:

Collection of Up Front Course Fees

The Issue

In mid 2001, under pressure from Legco, the Hong Kong government unilaterally removed exemptions it had previously granted allowing private schools to collect their fees up-front.

It did so despite that fact that it had, until then, routinely granted exemptions to sound and reputable schools for the benefit of both students and schools.

Legco's rationale was that such a payment system left students and parents open to financial loss in the event of sudden closure of schools or other situations in which students may not be able to complete a course for which they had paid in advance.

The HKFPE believes that the move is akin to using a sledgehammer to crack a nut. It is a bad policy. It threatens to cause more harm than good and may well result in the opposite outcome: closures of more schools, fewer jobs, less investment in the sector and less choice for students.

This restriction on commercial organizations – which do not enjoy special dispensation on rents and other overheads that many non-profit schools enjoy – limits cash flow for businesses that have fully complied with the law and do not have a history of unethical behaviour. This is especially damaging in the current economic downturn where cash flow is already subject to pressure.

In a free market economy, the level and method of collection of course fees should be dictated by market forces alone. This principle is routinely applied by non-profit schools such as those who require parents to buy a HK\$150,000 debenture for a guaranteed place for their child.

Registered schools are committed to the provision of appropriate premises, staff and resources for the duration of the entire course but students are not obliged to provide any kind of reciprocal commitment. They may drop out at any time for a variety of reasons and, under the current situation, the school is obliged to continue the course with fewer paying students, perhaps at a loss. Class sizes will decrease and courses will be cancelled when the tuition received no longer covers the teacher cost.

Students wishing to continue will not, therefore, get the benefit of that course. As a result of this experience, education providers will spend fewer resources on niche courses. Investment will tend toward the most popular courses and

result in homogenized education with less choice, a phenomenon that will lead to greater price competition and more school failures.

In short, the HKFPE believes that the removal of the Director's discretion to grant exemptions allowing up-front school fees is bad both for schools and for students.

Background

- The collection of School Fees is covered by Article 62 of the Education Regulations (Cap 279). Until June 2000, schools were required to collect fees in 12 equal monthly installments, “*unless otherwise permitted in writing by the Director.*” Such approvals became known as “exemptions”. Exemptions were granted to many schools, a fact that acknowledges the reality – collection of fees up-front makes sense for both students and schools and is widely practiced in all other countries.
- In June 2000, the Ordinance was amended and Article 62 was made more flexible – schools were permitted to collect fees according the length of the course. However, the increase in flexibility was more than countermanded by the sudden, unilateral removal of all previous exemptions. We understand that the removal of the Director's discretion was not effected at the initiative of the Education Department but was forced on in by Legco.
- The ED currently makes no distinction between fully registered and law-compliant organizations that have a good track record as educators and other operators who may be poorly organized, under-funded and operating outside the letter of the law. On the other hand, non-profit schools are not subject to this regulatory zeal.
- It is possible that the removal of the Director's discretion under Article 32 would not be tenable if tested legally.
- This limitation on collection of up front course fees is not, to the knowledge of the HKFPE, enacted in any other country in the world. It flies in the face of free market principles.
- Such controls are unfair, anti-competitive and legally questionable in limiting cash flow in any laissez-faire business environment.
- It is also illogical in the context of the Hong Kong marketplace where any business that provides a service requiring the establishment of an expensive infrastructure at its core (PCCW broadband, CLP, cable television, any golf or recreation club or even leasing an apartment) routinely ensures that it is not exposed to financial loss if a customer walks away mid-contract, by charging up-front fees.
- The excessively tight controls on up front fee collection currently imposed by the Education Department on registered schools only serves to encourage illegal, non-registered schools to provide monthly fee-based courses so they may collect fees unhindered.
- This issue is incongruent with the ideals of ‘lifelong learning’ as it does not encourage students to make a long-term commitment to study. The HKFPE believes that students should be encouraged to view education

as something organic that needs to be nurtured and developed over time.

- Since Hong Kong's future lies in service based industries dependent upon a highly skilled workforce, the government should be aggressively encouraging proliferation of different types of learning institutions to serve differing student requirements. With more schools offering different types of courses, Hong Kong residents will have more choices.
- Limitations on cash flow create the kind of instability that could put pressure onto otherwise normally-functioning schools and increase the chances of financial difficulties, insolvency and closure, thereby adding to Hong Kong's unemployment problems.
- The imposition of monthly fees adds greatly to the already onerous administrative load necessary to run a school in Hong Kong.
- The morale of other students and teachers alike may be affected if class numbers drop due to the lack of incentives to encourage student commitment.
- The HKFPE believes that the provision of longer-term courses and associated fee structures will allow registered schools to compete better in the marketplace, thereby helping to instill longer-term commitment and dedication in members schools' students.
- China is now opening its markets to private educators. It is relaxing regulations. It's probable that within the next two years, China will be less regulated than Hong Kong with respect to private education.

The Federation proposes:

- In consultation with the HKFPE, as the representative body of the private education sector, there should be criteria put in place to determine requirements to obtain an exemption. This should ensure that those granted exemptions were schools of repute with sound management and finances. The HKFPE has already put forward proposals on what the criteria might be.
- After agreeing to the criteria, the Education Department should return to the case-by-case provision of exemptions to Article 62, regaining for the Director the discretion so to do. This step would be the first taken towards amendment of the legislation, to bring it more into line with international practice in the private education sector.
- This step would remove the distinction between non-profit and profit-making schools in terms of fee collection and registration procedures.
- All educated providers should be treated equally and fairly. The government should not make a distinction between "education" and "instruction" and apply the same licensing and registration procedures to all educational businesses including arts and music centres.
- Private education providers, as profit-making businesses, should be granted exemption from Education Department control in terms of all financial aspects of their business modus operandi.
- Students should be allowed freedom of choice in deciding when they should pay fees and which methods they should employ to pay them.

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Imposition of monthly fees can be inconvenient for students as well as educators.

- Complaints against schools should be handled by the Consumer Council rather than the Education Department. This would put private education in line in line with other business of a comparable nature.

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