

The Government of the Hong Kong Special Administrative Region

政府總部  
環境運輸及工務局  
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20 May 2004

Mr Andy Lau  
Clerk to Panel  
Legislative Council  
8 Jackson Road  
Central  
Hong Kong  
[Fax No. : 2121 0420]

Dear Mr Lau,

**Consultation Paper on  
Review of Regulation of Non-franchised Bus (NFB) Operation**

The Legislative Council Panel of Transport has earlier been informed that the Transport Advisory Committee (TAC) has set up a Working Group to conduct the review on the regulatory framework and licensing system for NFB operation.

The TAC Working Group will hold consultation sessions with the public transport trades on 21 May 2004 to seek their views on the initial proposals being examined by the Working Group. I enclose a copy of the consultation paper issued by the TAC Working Group to the relevant trade associations for Members' reference. The English version of the paper will be provided once available.

The TAC Working Group aims to provide its recommendations to the TAC by mid 2004. The TAC will then submit a review report to the Government. The Government will study the report and consult the Panel before deciding on the way forward.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Angela Lee', written in a cursive style.

(Miss Angela Lee)  
for Secretary for the Environment,  
Transport and Works

**Transport Advisory Committee Working Group**  
**On Review of Regulation of Non Franchised Bus Operation**  
**Proposals under Consideration**  
**(Translation)**

**Purpose**

1. This paper sets out the proposals on the regulatory framework and licensing system for non-franchised bus (“NFB”) operation presently under consideration by the Transport Advisory Committee Working Group (“Working Group”) on Review of Regulation of Non Franchised Bus Operation and gauges the opinions of the transport trades on the proposals.

**Background**

2. NFB services are authorized by Passenger Service Licence (“PSL”) issued by Transport Department under the Road Traffic Ordinance (Cap.374) (“RTO”). In accordance with section 28 of RTO, the Transport Department will take into account, in addition to any other matter which is relevant to the application, the following in determining an application for operation of NFB service:
  - (a) any policy direction from the Chief Executive in respect to the provision of public transport services;
  - (b) any limit in force on the number of vehicles that may be

registered;

- (c) the need for the services to be provided by the applicant;
- (d) the level of service already provided or planned by other public transport operators;
- (e) traffic conditions in the areas and on the roads where the services are to be provided; and
- (f) the standard of service to be provided by the applicant.

3. The Administration, taking into account requests raised by the operators, adopts a relatively flexible approach in processing applications for PSL to allow them to maintain efficient and effective NFB operations. A PSL may authorize the holder to operate one or more of the following 8 types of NFB service:

<u>Service Type</u>	<u>Code</u>
Tour Service	A01
Hotel Service	A02
Student Service	A03
Employees' Service	A04
International Passenger Service	A05
Residents' Service	A06
Multiple Transport Service	A07
Contract Hire Service	A08

### Problems of NFB Operation

4. Public transport trades including NFB, public light bus (“PLB”) and taxi trades have expressed their concerns to the TACWG about an oversupply of NFBs. During the last five years between 1998 and 2003, the number of registered NFBs increased from 5,868 to 7,206, representing an increase of 23% which is 19% higher than the 4% growth in the number of franchised buses over the same period.
5. Besides, the trades are also concerned that individual NFB operators have recently gone beyond their established scope of operation to operate unauthorised services or services deviating from the NFB policy. For example, some individual NFB operators have abused the flexibility allowed to provide long-term free bus services to the public with a fixed route or a fixed destination area. On the other hand, some individual operators pick up/ set down passengers at unapproved locations or deviate from the approved routeing, etc. Whilst such NFB services may provide alternative services to passengers, their mode of operation would undermine the regular and legitimate transport services. This is not in the interest of the public.
6. In view of the above problems, there is general support for the Administration to strengthen the regulation on NFB services and step up enforcement against unauthorised NFB services.
7. The Administration, therefore, invited the Transport Advisory

Committee (“TAC”) at the end of 2003 to conduct a review on the regulatory framework and licensing system for NFB operation and to propose measures to strengthen the regulation of NFB after taking into account the views of the public transport trades and the public. The objective of the review is to help the Administration maintain a balanced public transport system with proper coordination among different public transport modes to ensure safe and efficient service delivery.

8. In response to the invitation, the TAC set up a Working Group at the end of 2003. The Working Group commenced its work immediately upon establishment. It has received views from various sectors and exchanged views with representatives from the PLB, taxi and NFB trades in January 2004 on the review of the operation of NFB.

### **Role of NFBs**

9. Given the limited road space and community concerns about environmental impact created by road-based vehicles, the existing transport policy is to accord priority to the mass carriers, viz. railways and franchised buses with railways as the backbone of the public transport system. The other modes will assume a supplementary role. The inter-modal co-ordination policy under this public transport system has been operating effectively, reducing unhealthy competition, traffic congestion as well as environmental impact. Under this policy, NFB should continue to fulfil a supplementary function of relieving demand for franchised bus and green minibus services during peak hours and

filling gaps of passenger demand which cannot be met viably by the regular public transport services. They also provide tailor-made services, such as hotel, tour and student services, to specified groups of passengers.

### **Proposals under Consideration**

10. In the light of the problem of oversupply of NFB services, the Working Group considers that there is a need to regulate NFB services in a more effective way. In particular, stringent control should be asserted on increase of supply of NFB vehicles or services. On the other hand, there is a need to tackle the unauthorised NFB services and to improve the traffic situation. In order to ensure that NFB operation is regulated under a more effective system and to provide a reasonable operating environment to the legitimate public transport operators, including law-abiding NFB operators, the Working Group is considering three types of proposals, including:

- (a) co-ordinate the growth of NFB with demand for their services;
- (b) strengthen regulatory means to tackle unauthorised services; and
- (c) better use of transport management measures to regulate NFB services.

(a) **Co-ordinate the Growth of NFB with Demand for their Services**

11. The Working Group is examining a series of proposed measures to coordinate the growth of NFB with demand for their services and to ensure that all applications lodged in respect of NFBs meet the requirements under section 28 of the RTO (Cap.374) so that the increase of NFB will come under effective control. Details of the proposals under consideration are at Annex 1.

Annex 1

(b) **Strengthen Regulatory Means to Tackle Unauthorised Services**

12. The existing licensing conditions on Contract Hire Service (A08) stipulates that any service with a fixed route or a fixed destination area on which carriage is offered to any member of the public other than at separate fares and its operation is for not more than 14 days, either consecutively or intermittently, during a continuous period of 12 months, is not subject to prior approval. Such service is commonly known as “free bus service”. Some individual NFB operators are now abusing this flexibility to provide different types of unauthorised services.
13. Besides, some individual operators are now providing services to service sponsors/hirers before approval is obtained from the Administration.
14. To ensure that enforcement officers can combat unauthorised operation more effectiently, we initially propose that the Adminstration should adopt a series of measures to achieve the following objectives:



- (i) Reduce the possibility of abusing Contract Hire Service (A08) by NFB operators;
- (ii) Hold the PSL holders ultimately responsible for the services provided by their fleets;
- (iii) Ensure that the drivers and service sponsors/hirers fully understand the particulars of the services rendered, in order to prevent them from providing/ requesting the PSL holder for provision of unauthorised NFB services;
- (iv) Ensure that the enforcement officers and passengers can differentiate different types of NFB services;
- (v) Facilitate enforcement officers to take enforcement actions effectively by empowering them with relevant authority; and
- (vi) Imposed stricter sanctions on PSL holders who commits repeated offence.

Annex 2

15. Details of the proposed measures under consideration are at Annex 2.

(c) **Better Use of Transport Management Measures**

16. The Administration should implement the following transport management measures to forestall the occurrence of unauthorised NFB

operation:

- (i) Improve the level of regular public transport services;
- (ii) Implement different traffic management measures at individual locations affected by NFB activities to improve the traffic condition. Competitive regular public transport services should also be provided at these locations to meet the passenger demand; and
- (iii) Encourage operators of regular public transport services to offer concession schemes to attract passengers.

### **Advice Sought**

17. Public transport trades are welcome to express their views on the above proposals. We will carefully examine the views expressed by the public transport trades as well as other sectors before finalizing the proposals. The Working Group plans to submit proposals to strengthen the regulation on NFB operation to the TAC around the middle of this year.

Transport Advisory Committee Working Group

On Review of Regulation of Non Franchised Bus Operation

May 2004

**Coordinating the Growth of**  
**Non Franchised Bus with Demand for their Services -**  
**Proposals under Consideration**

The following proposals under consideration aim at coordinating the growth of NFB with demand for their services in a more effectively manner. When considering various applications related to NFB services (such as applications for new PSL, additional vehicle, replacement vehicle, additional service endorsement, and PSL and service endorsement renewal), the Administration should adopt appropriate proposals from those set out below according to the different nature of the applications. In general, more stringent measures should be adopted in processing applications that would result in new supply of NFB vehicles or services.

1. The Administration should in accordance with section 28 of the RTO (Cap. 374) adopt stringent vetting criteria in processing applications concerning NFB services.
  
2. In order to justify his application for NFB services, an applicant has to provide documents that satisfy the stringent requirements, including valid service contracts, to prove the genuine need for the proposed services for a period (e.g. the next 6 months) after the approval is granted. To ensure that there is practical need for all services approved, the Administration, in vetting applications for a service, should stipulate that the validity period approved for the service should tie in with the contract submitted but not exceed the validity period of the PSL.

3. The Administration should assess the operating situation of the whole NFB fleet of the applicant so as to ascertain whether there is a genuine need to adjust/ maintain his existing fleet.
4. In order to prevent any abuse of the flexibility of allowing one single bus to provide one or several types of services and to ensure that NFBs are better geared to service needs, the Administration should require each bus be allowed to provide only one or a restricted number (e.g. not more than two) of types of service.
5. On the other hand, the Administration should tighten up the existing flexibility in processing applications. When granting endorsement for a NFB of a PSL holder to provide a particular service, including Tour Service (A01), Hotel Service (A02), Student Service (A03) and Employees' Service (A04), the Administration should stop automatic grant of the same service endorsement to the full fleet of the PSL holder.
6. When granting endorsement for one NFB of a PSL holder to provide Tour Service (A01), the Administration should stop automatic grant of service endorsement for that bus to provide Hotel Service (A02).
7. The Administration should improve regular public transport services in accordance with changing passenger needs, and aptly adjust the existing NFB services in the light of the changes in the level of service of the regular public transport services.
8. For application for replacement vehicle, if approved, its passenger capacity should be comparable to that of the original vehicle. In

principle, capacity of the replacement vehicle should not exceed that of the original one.

**Strengthen Regulatory Means to Enforce against Unauthorised Services -  
Proposals under Consideration**

To monitor the operation of NFB more effectively and to enforce against the unauthorised services, the Administration should adopt the following proposals:

1. The existing PSL conditions should be revised to strengthen the regulation of Contract Hire Services (A08). The Working Group initially considers that PSL holders who are permitted to provide contract hire services should be allowed to provide specified short-term contract hire services (e.g. contract hire services provided for no more than two days, such as those transport services provided to participants of group/school activities or weddings and funeral guests); whereas for other contract hire services, prior approval from the Administration shall be obtained every time when such service is hired. As regards free bus services for promotional purposes, including free bus services for shopping malls and show flats, prior approval shall be obtained regardless of the duration of service or whether the service is offered to any member of public or not. Operational restrictions, including the operating period of the service during the day, frequency and bus types, should also be imposed for these free services. The number of days for a single sponsor/hirer or a designated place of departure/destination to be provided with services within a year shall also be restricted.
2. The existing PSL conditions should be revised to establish that a PSL holder shall be held ultimately responsible for the services provided by its fleet. When a NFB service has been approved by the Administration, the PSL holder shall ensure that the drivers assigned to drive the respective

NFB fully understand the particulars of the service approved, such as the frequency and the routes. The PSL holder shall also sign a proper contract with the service sponsor/hirer, a copy of which shall be kept in the buses concerned for inspection. The PSL holder shall keep a daily operation and hiring record for every NFB to keep track of the details and for inspection by the Administration as necessary.

3. The existing PSL conditions should be revised to require service particulars such as type of service, routing, point of departure/destination, schedule of service and name of service sponsor/hirer to be clearly marked or displayed in specified format, as the type of service may apply, when the NFBs are in service.
4. The existing PSL conditions should be revised to stipulate that NFBs which are approved to operate only one or restrictive types of service shall display clearly on the vehicle body the type of services provided.
5. To facilitate clear identification by enforcement officers that the NFBs are providing services in accordance with approval granted by the Administration, the existing PSL conditions should be revised to include that a schedule of service shall be stipulated for services with specified routes, frequency or fares. These services include shuttle services provided under Hotel Service (A02), Student Service (A03) for tertiary education institutions, Employees' Service (A04), International Passenger Service (A05), Residents' Service (A06), Multiple Transport Service (A07) and certain types of Contract Hire Service (A08) operating on fixed routes.
6. NFBs generally provide specified services for specific groups of passengers. The existing PSL conditions should be revised to strengthen the regulation of the forms of payment. Payment of fares shall be made at

designated locations and in the forms as approved by the Administration. Cash payment on board by passengers shall be banned under normal circumstances.

7. The existing PSL conditions should be revised to empower enforcement officers of the Transport Department to board a NFB for the purpose of carrying out investigation and prosecution.
8. The existing PSL conditions should be revised to require a service sponsor/hirer of shuttle services provided under Hotel Service (A02), Student Service (A03) for tertiary education institutions, Employees' Service (A04), International Passenger Service (A05), Residents' Service (A06) and certain types of Contract Hire Service (A08) operating on fixed routes or fixed timetables to submit advance application to the Administration with details of the proposed service. The service sponsor/hirer may hire service operators only after approval-in-principle has been granted by the Administration. Accordingly, the operators need to produce the respective approval-in-principle when applying for operation of the service concerned.
9. The existing PSL conditions should be revised to ensure that the PSL holder shall make known to the service sponsor/hirer that the approved service details like frequency and routing. The service sponsor/hirer, accordingly, shall acknowledge in written form the service on hire and guarantee that he will not require the PSL holder or driver to provide unauthorised services.
10. The existing mechanism of sanction should be reviewed to ensure that PSL holders who committed repeated offences are imposed with stricter sanctions.



11. To facilitate on-site prosecution by enforcement officers, the relevant regulations should be amended to turn certain types of breach of licensing conditions into specified offences which can be enforced through issuing of fixed penalty tickets. For example, these breaches may include operating without properly displaying the type of service or collecting fare payment on board without authorization or at unapproved locations.