

立法會
Legislative Council

LC Paper No. CB(1)2243/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of twenty-fourth meeting on
Tuesday, 17 April 2007, at 2:30 pm
in the Chamber of the Legislative Council Building**

- Members present** :
- Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
 - Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
 - Hon Albert HO Chun-yan
 - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
 - Dr Hon LUI Ming-wah, SBS, JP
 - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
 - Hon CHAN Kam-lam, SBS, JP
 - Hon LEUNG Yiu-chung
 - Hon SIN Chung-kai, JP
 - Hon LAU Kong-wah, JP
 - Hon Emily LAU Wai-hing, JP
 - Hon Andrew CHENG Kar-foo
 - Hon Abraham SHEK Lai-him, JP
 - Hon LI Fung-ying, BBS, JP
 - Hon Tommy CHEUNG Yu-yan, JP
 - Hon Albert CHAN Wai-yip
 - Hon WONG Kwok-hing, MH
 - Hon LEE Wing-tat
 - Hon LI Kwok-ying, MH, JP
 - Hon Jeffrey LAM Kin-fung, SBS, JP
 - Hon LEUNG Kwok-hung
 - Dr Hon Fernando CHEUNG Chiu-hung
 - Hon Ronny TONG Ka-wah, SC
 - Prof Hon Patrick LAU Sau-shing, SBS, JP
 - Hon KWONG Chi-kin
 - Hon TAM Heung-man
- Members absent** :
- Hon LEE Cheuk-yan
 - Hon CHEUNG Hok-ming, SBS, JP
 - Hon CHIM Pui-chung

- Public Officers attending** : Mr Patrick HO
Deputy Secretary for the Environment, Transport and Works
- Miss Ida LEE
Principal Assistant Secretary for the Environment, Transport and Works
- Mr Kady LO Kin-hung
Chief Inspecting Officer (Railways)
Environment, Transport and Works Bureau
- Mr David LAU
Principal Assistant Secretary for Financial Services and the Treasury
- Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
Department of Justice
- Miss Clara LEUNG
Government Counsel
Department of Justice
- Mr Albert YUEN Lap-pun
Assistant Commissioner for Transport/Bus & Railway
- Miss Alice AU YEUNG
Principal Transport Officer (Bus and Railway)
Transport Department
- Attendance by invitation** : MTR Corporation Limited
- Mr Leonard TURK
Legal Director & Secretary
- Mr Wilfred LAU
Head of Operations
- Mrs Miranda LEUNG
General Manager – Corporate Relations
- Ms Maggie SO
External Affairs & Government Relations Manager

Mr Jason WEBBER
Partner, Slaughter & May
(Legal Adviser of MTR Corporation)

Kowloon-Canton Railway Corporation

Mr Y T LI
Senior Director, Transport

Mr Raymond WONG
Senior Corporate Affairs Manager

Clerk in attendance : Mr Andy LAU
Chief Council Secretary (1)2

Staff in attendance : Ms Connie FUNG
Assistant Legal Adviser 3

Ms Sarah YUEN
Senior Council Secretary (1)6

Mr Anthony CHU
Council Secretary (1)2

Action

I Meeting with the Administration/the two railway corporations

(LC Paper No. CB(1)1293/06-07(02) - The Aide Memoire provided by the Administration for phased discussion of its response to issues raised at previous meetings

LC Paper No. CB(1)1247/06-07(01) - The Administration's response to issues raised at previous meetings (Items 25, 27, 34, 42, 48-49 and 51-59 of LC Paper No. CB(1)1247/06-07(01))

LC Paper No. CB(1)1293/06-07(01) - The Administration's consolidated response to Dr Hon Fernando CHEUNG Chiu-hung's submissions on the integrated Operating Agreement

LC Paper No. CB(1)1345/06-07(01) - Information paper provided by the Administration

LC Paper No. CB(3)700/05-06 - the Bill

Action

- LC Paper No. CB(1)1330/06-07(01) - Marked-up copy of the Bill
- LC Paper No. CB(1)1330/06-07(02) - Letter from Assistant Legal Adviser (ALA) to the Administration dated 10 August 2006
- LC Paper No. CB(1)1330/06-07(03) - The Administration's reply dated 19 September 2006 to ALA's letter dated 10 August 2006
- LC Paper No. CB(1)1330/06-07(04) - Letter from ALA to the Administration dated 26 October 2006
- LC Paper No. CB(1)1330/06-07(05) - The Administration's reply dated 8 November 2006 to ALA's letter dated 26 October 2006
- LC Paper No. CB(1)1345/06-07(02) - Relevant extract of Kowloon-Canton Railway Corporation Ordinance (Cap. 372))

The Bills Committee deliberated (index of proceedings attached at **Annex**).

Matters arising from previous meetings

2. The Bills Committee continued to examine the Administration's response to issues raised at previous meetings (the Response) (LC Paper No. CB(1)1247/06-07(01)). When considering item 25 thereof, members were not satisfied with MTR Corporation Limited (MTRCL)'s response that it would not retrofit public toilets in underground stations due to heavy capital investment and massive drainage and ventilation works required which entailed great technical and engineering difficulties. At members' request, MTRCL undertook to re-examine the feasibility of retrofitting public toilets at existing MTR stations above ground levels and revert to the Bills Committee.

3. When discussing item 34 of the Response in respect of an objective and effective system for the purpose of issuing warnings and/or imposing financial penalty on the post-merger corporation (MergeCo) for any repeated failures by MergeCo to comply with any Performance Requirement, Mr Andrew CHENG said that he might consider moving Committee Stage amendments (CSAs) to the Bill to require MergeCo to introduce a demerit points system for situations such as disruptions, delays and system failures in train services, and set objective and clear standards for the service performance of the railway corporations.

4. On matters relating to the provision of facilities to persons with disabilities (PwDs), the Bills Committee noted that MTRCL agreed to add a new clause in the integrated Operating Agreement (IOA) to stipulate that MergeCo should establish procedures to consult groups representing PwDs, carry out annual reviews of its facilities provided for PwDs, and report the review result to the relevant groups representing PwDs.

Action

5. The Bills Committee had completed deliberation on the Response and started to examine the Administration's consolidated response to Dr Hon Fernando CHEUNG Chiu-hung's submissions on the IOA (LC Paper No. CB(1)1293/06-07(01)).

6. As regards Dr Fernando CHEUNG's suggestion on adding a new clause in the IOA, requiring MergeCo to provide half-fare concession to full-time students aged 25 or below, senior citizens aged 65 or above and PwDs, MTRCL was of the view that fare concessions were offered by railway corporations on their own initiative, having regard to specific circumstances and market conditions and it was not appropriate to stipulate concessionary fare scheme as a mandatory requirement in the IOA. The Administration further advised that it planned to revert to the Subcommittee to Study the Transport Needs of and Provision of Concessionary Public Transport Fares for Persons with Disabilities on its policy on the provision of fare concessions to PwDs in June 2007. Notwithstanding the replies, some members highlighted the specific example cited by the Equal Opportunities Commission at the Subcommittee meeting on 12 April 2007 whereby the Victorian Government in Australia had stipulated in the privatization process that concessions for those in need would continue to be provided by operators after privatization. They requested that the Government, being the majority shareholder of MTRCL and the sole owner of the Kowloon-Canton Railway Corporation, should make use of the rail merger opportunity to require the railway corporations to provide concessionary fares for PwDs as well. In the event that the two railway corporations did not agree to the provision of concessionary fares for PwDs, Mr Andrew CHENG said that he might consider moving CSAs to the Bill to this effect. In this regard, he noted that the scope of the Bill as set out in the long title of the Bill included, inter alia, the provision for the regulation of the operation by MTRCL of railways and certain bus services other than in relation to any fare payable for using such services. He was of the view that it was arguable that fare regulation was mainly related to fare determination and adjustment and as such, it did not include the provision of concessionary fares. He sought the advice from the Assistant Legal Adviser 3 (ALA) on whether concessionary fares for PwDs fell within the scope of the Bill and whether any related CSAs could be moved. ALA would study the matter and advise the Bills Committee in due course.

Follow-up actions

Admin/
MTRCL/
KCRC

7. To address the various concerns expressed at the meeting, the Administration and the two railway corporations were requested to follow up on certain matters and provide information as detailed below –

Provision of public toilets

(a) The Administration and the two railway corporations to consider the provision of public toilets at all new railway stations;

Action

- (b) The Administration and MTRCL to re-examine the feasibility of providing public toilets at existing MTR stations and provide the following information:
- i) the technical and engineering difficulties for providing public toilets, and the related costs for the improvement works at each MTR station;
 - ii) the number of staff toilets provided at each MTR station;
 - iii) the increase in retail shops at MTR stations since its opening;
 - iv) whether MTRCL was exempted from the Buildings Ordinance (Cap. 123) to provide sufficient toilet facilities at railway premises, and if so, the justifications for such exemption;
 - v) how MTRCL could resolve the technical and engineering difficulties for providing staff toilets, and drains and sewers for the food and beverage shops at MTR stations for the carriage of foul water;

II Any other business

8. The Bills Committee agreed to continue discussion with the Administration and the two railway corporations on the Administration's consolidated response to Dr Hon Fernando CHEUNG Chiu-hung's submissions on the IOA at the next meeting scheduled for Tuesday, 24 April 2007, from 4:30 pm to 6:30 pm. Subject to the completion of the discussion on the outstanding issues, the Bill Committee would commence clause-by-clause examination of the Bill. The Chairman advised members that as she would be out of town due to other official commitment and would not be able to chair the next meeting, the Deputy Chairman would chair the next meeting.

9. There being no other business, the meeting ended at 4:30 pm.

**Proceedings of the twenty-fourth meeting of
the Bills Committee on Rail Merger Bill
on Tuesday, 17 April 2007, at 2:30 pm
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Meeting with the Administration/the two railway corporations</i>			
000000 - 000118	Chairman	- Opening remarks	
000119 - 002557	Administration Miss TAM Heung-man Mr WONG Kwok-hing Mr Andrew CHENG Mr Albert CHAN Prof Patrick LAU Ms Emily LAU Chairman Dr Fernando CHEUNG MTRCL	<ul style="list-style-type: none"> - Briefing by the Administration on item 25 of LC Paper No. CB(1)1247/06-07(01) - Discussion on the cost implications and the technical and engineering difficulties of retrofitting existing MTR stations with public toilets - Discussion on the provision of public toilets in the vicinity of existing MTR stations - Discussion on the need for introducing a new planning requirement for the post-merger corporation (MergeCo) to provide public toilets at all new railway stations 	Administration to take necessary follow-up action
002558 - 002942	Mrs Selina CHOW	- Mrs Selina CHOW's expression of view that the issue of provision of public toilet for MTR stations should more appropriately be taken up by the relevant panel or subcommittee	
002943 - 005419	Mr Albert HO Mr LAU Kong-wah Mr Andrew CHENG Mr Albert CHAN Prof Patrick LAU Ms Emily LAU Mr LEUNG Kwok-hung Mr WONG Kwok-hing Miss TAM Heung-man Chairman MTRCL Administration	<ul style="list-style-type: none"> - Discussion on the cost implications and the technical and engineering difficulties of retrofitting existing MTR stations with public toilets - Discussion on whether railway stations were exempted from the Buildings Ordinance (Cap. 123) in respect of the need for providing sufficient public toilet facilities - Discussion on the need for MergeCo to introduce a new planning requirement for providing public toilets at all new railway stations 	MTRCL to take necessary follow-up action
005420 - 005558	Administration	- Briefing on item 27 of LC Paper No. CB(1)1247/06-07(01)	

Time marker	Speaker	Subject(s)	Action required
005559 - 005914	Administration Andrew CHENG ALA	<ul style="list-style-type: none"> - Briefing by the Administration on item 34 of LC Paper No. CB(1)1247/06-07(01) - Discussion on the need for introducing an objective and effective system for the purpose of issuing warnings and/or imposing financial penalty on MergeCo for any repeated failures by MergeCo to comply with any Performance Requirement 	
005915 - 011120	Administration Mr Albert HO Chairman Mr WONG Kwok-hing KCRC	<ul style="list-style-type: none"> - Briefing by the Administration on item 42 of LC Paper No. CB(1)1247/06-07(01) - Discussion on the improvement measures for the Light Rail service 	
011121 - 011249	Administration	<ul style="list-style-type: none"> - Briefing on items 48 and 49 of LC Paper No. CB(1)1247/06-07(01) 	
011250 - 011915	Administration Dr Fernando CHEUNG MTRCL	<ul style="list-style-type: none"> - Briefing by the Administration on items 51 to 59 of LC Paper No. CB(1)1247/06-07(01) - Discussion on the criteria adopted by the railway corporations in inviting persons with disabilities (PwDs) organizations for participating in their consultative process - Discussion on improvements made to the design of ticketing machines to facilitate access and use by persons with different types of disabilities 	
011916 - 020059	Administration Dr Fernando CHEUNG Mr LEUNG Kwok-hung Chairman Mr Ronny TONG Mr LEUNG Yiu-chung Mr LEE Wing-tat Mr Andrew CHENG	<ul style="list-style-type: none"> - Briefing by the Administration on the consolidated response to Dr Fernando CHEUNG's submissions on the integrated Operating Agreement (LC Paper No. CB(1)1293/06-07(01)) - Discussion on the need for MergeCo to provide concessionary fares for PwDs as a requirement in the integrated Operating Agreement - Discussion on the specific example cited by the Equal Opportunities Commission whereby the Victorian Government had stipulated in the privatization process that concessions for those in need would continue to be provided by operators 	Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		after privatization - Discussion on the compensation payable to the railway corporations should the Chief Executive in Council give a direction requiring the railway corporations to provide concessionary fares to PwDs - Mr WONG Kwok-hing's request that the members' views on the provision of concessionary fares for PwDs be conveyed to the Secretary for the Environment, Transport and Works and the Secretary for Health, Welfare and Food	
020100 - 020320	Mr Ronny TONG Chairman	- Mr Ronny TONG's expression of view that members from different political parties should be invited to express views on the provision of concessionary fares for PwDs	
<i>Agenda Item II – Any other business</i>			
020321 - 020407	Chairman	- Date of next meeting	