

# 立法會

## *Legislative Council*

LC Paper No. CB(1)2247/06-07  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/3/05

### **Bills Committee on Rail Merger Bill**

#### **Minutes of twenty-eighth meeting on Tuesday, 8 May 2007, at 8:30 am 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)
  - Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
  - Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
  - Hon CHAN Kam-lam, SBS, JP
  - Hon LEUNG Yiu-chung
  - 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
  - Dr Hon Fernando CHEUNG Chiu-hung
  - Hon CHEUNG Hok-ming, SBS, JP
  - Hon Ronny TONG Ka-wah, SC
  - Prof Hon Patrick LAU Sau-shing, SBS, JP
  - Hon TAM Heung-man
- Members absent** :
- Hon Albert HO Chun-yan
  - Hon LEE Cheuk-yan
  - Dr Hon LUI Ming-wah, SBS, JP
  - Hon SIN Chung-kai, JP
  - Hon Jeffrey LAM Kin-fung, SBS, JP
  - Hon LEUNG Kwok-hung
  - Hon CHIM Pui-chung
  - Hon KWONG Chi-kin

- 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 Brian CHOI  
Assistant Secretary for the Environment, Transport and Works
  - 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
- 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 Richard THORNHILL  
Partner, Slaughter & May  
(Legal Adviser of MTR Corporation)

Ms Peggy LEUNG  
Associate, Slaughter & May  
(Legal Adviser of MTR Corporation)

Kowloon-Canton Railway Corporation

Mr Michael KWAN  
Train Operations Manager

Ms Ida LEUNG  
Senior Public Affairs Manager

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

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3

Mr Anthony CHU  
Council Secretary (1)2

Miss LAM Yuen-kwan  
Clerical Assistant (1)1

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Action

**I Confirmation of minutes**

(LC Paper No. CB(1)1502/06-07 -- Minutes of meeting on 6 March 2007)

The minutes of the meeting held on 6 March 2007 were confirmed.

2. The Bills Committee agreed to the proposed timeslots for holding additional meetings which were circulated to members vide LC Paper No. CB(1)1517/06-07 on 3 May 2007. The updated meeting schedule was issued to members vide LC Paper No. CB(1)1557/06-07 on 8 May 2007.

**II Clause-by-clause examination of the Bill**

(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  
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

Action

- 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))

3. The Bills Committee deliberated (index of proceedings attached at **Annex**).
4. The Bills Committee continued clause-by-clause examination of the Bill.

Follow-up actions

5. The Administration and Kowloon-Canton Railway Corporation (KCRC) were requested to follow up on certain matters and provide information as detailed below –

Clause 15

- (a) The Administration to explain what kind of Concession Property, if taken possession by Government upon revocation or expiry of the franchise of the post-merger corporation (MergeCo), would be subject to compensation under proposed new section 19B and the calculation basis of such compensation;
- (b) The Administration to review the use of the Chinese term "接觸" in the Chinese version of the Bill that corresponded with the term "access" under the proposed sections 15B and 19C;

Clause 16

- (c) The Administration to review whether the proposed section 33(1A)(c) which empowered the Secretary for the Environment, Transport and Works (SETW) to make regulations for the purpose of controlling and regulating the use of the North-west Transit Service Area (TSA) bus service by members of the public and their conduct while using the TSA bus service, and the existing section 33(1)(a)(ii) of MTRO which provided for SETW's power to make regulations to control and regulate the same aspects in respect of railway services, were outdated and should be deleted.

Action

- (d) The Administration to consider adding a new provision requiring MergeCo to disclose to the public the programme of the future operations or plans for the rail and TSA bus service submitted to the Commissioner for Transport under the new section 33(1A)(a) of MTRO;
- (e) The Administration to explain the need for the proposed section 33(1A)(d) which provides for SETW's power to make regulations on "any connected purposes" to the matters set out in sub-paragraph (a) – (c) of the same section;

Others

- (f) The Administration to confirm whether the fare adjustment mechanism (FAM) for the controlled fares of MergeCo would also cover TSA bus service;
- (g) The Administration to illustrate with examples how the permitted range of flexibility allowed under FAM would apply to the fares of KCRC bus service within the TSA; and
- (h) KCRC to advise the number of low-floor buses vis-a-vis its total bus fleet size operating in the TSA; and their plan, if any, to replace all their conventional buses with low-floor buses.

**III Any other business**

6. The Bills Committee agreed to continue examining clause-by-clause examination of the Bill at the next meeting scheduled for Thursday, 10 May 2007, from 2:30 pm to 6:30 pm.
7. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the twenty-eighth meeting of  
the Bills Committee on Rail Merger Bill  
on Tuesday, 8 May 2007, at 8:30 am  
in the Chamber of the Legislative Council Building**

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
<i>Agenda Item I – Confirmation of minutes</i>			
000000 - 000009	Chairman	- Confirmation of minutes of the meeting held on 6 March 2007 (LC Paper No. CB(1)1502/06-07)	
<i>Agenda Item II – Clause-by-clause examination of the Bill</i>			
000010 – 000655	Chairman Mr TAM Yiu-chung Mr LEE Wing-tat	- Opening remarks  - Updated meeting schedule  - Administration was requested to provide additional information to the Bills Committee in respect of the issues arising from previous meetings by 15 May 2007	
000656 – 000912	Administration	- Briefing on Clause 15 by the Administration	
000913 – 002740	Mr LAU Kong-wah Mr LEE Wing-tat Mr Abraham SHEK Administration	- Discussion on whether Concession Property included property of Kowloon-Canton Railway Corporation bus service within the North-west Transit Service Area (TSA bus service)  - Discussion on the disposal and alteration of the Concession Property (new sections 19A(3) and (4) of the Mass Transit Railway Ordinance (MTRO) (Cap. 556))  - Discussion on the compensation payable and the different types of Concession Property for which compensation was payable and the calculation of compensation amount (new section 19B of MTRO)	
002741 – 003312	Mr LEE Wing-tat Administration	- Discussion on the terms "Corporation Common Property" and "KCRC Common Property" under new section 19C	
003313 – 003803	Mr Andrew CHENG Administration	- Discussion on the Chinese version of the term "to have assess to" (section 19C of MTRO)	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
003804 – 004607	Administration Ms Emily LAU Chairman	<ul style="list-style-type: none"> <li>- Briefing on Clause 20 of the Bill by the Administration</li> <li>- Discussion on the justifications for excluding the right of MTR Corporation Limited (MTRCL) to appeal to the Chief Executive in Council in respect of some of the decisions of the Secretary for the Environment, Transport and Works (SETW) or the Commissioner for Transport (the Commissioner) made under MTRO</li> </ul>	
004608 – 004921	Administration Mr LAU Kong-wah	<ul style="list-style-type: none"> <li>- Briefing on Clauses 7, 8 and 10 by the Administration</li> <li>- Discussion on the criteria for measuring whether the TSA bus service was operated in a proper and efficient manner</li> </ul>	
004922 – 005031	Administration	<ul style="list-style-type: none"> <li>- Briefing on Clause 16 by the Administration</li> </ul>	
005032 – 010254	Ms LI Fung-ying Mr LAU Kong-wah Mr LEE Wing-tat Kowloon-Canton Railway Corporation (KCRC) Administration Chairman	<ul style="list-style-type: none"> <li>- Discussion on the public consultation mechanism in relation to changes of TSA bus service</li> <li>- Discussion on the mechanism for adjusting the fares of TSA bus service</li> </ul>	
010255 – 011209	Ms Emily LAU Mr Albert CHAN Administration	<ul style="list-style-type: none"> <li>- Discussion on the powers granted to SETW to make regulations in respect of the expanded scope of the franchise during the Concession Period</li> </ul>	
011210 – 011502	Mr WONG Kwok-hing Administration	<ul style="list-style-type: none"> <li>- Discussion on whether the Fare Adjustment Mechanism (FAM) for the post-merger corporation (MergeCo) would cover the TSA bus fares</li> </ul>	
011503 – 012002	Mr Andrew CHENG Administration ALA3	<ul style="list-style-type: none"> <li>- Discussion on possible Committee Stage amendments (CSAs) to require MergeCo to ensure that TSA bus fares were reasonable and that the programme of future operations and plans for the TSA bus service (the Programme) submitted by MergeCo to the Commissioner would contain proposed fare levels</li> </ul>	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
012003 – 012319	Ms Emily LAU Administration	- Discussion on the drafting of the Chinese version of the new section 33(1A) of MTRO	
012320 – 012657	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> <li>- Request for information on the operation of the FAM with the adjustment of individual controlled fares within <math>\pm 10\%</math> of the overall adjustment rate on railway fares and TSA bus fares to ensure the TSA bus fares were reasonable</li> <li>- Discussion on possible CSAs to require MergeCo to ensure that TSA bus fares were reasonable and that the Programme submitted by MergeCo to the Commissioner should contain proposed the fare levels</li> </ul>	
012658 – 013159	Dr Fernando CHEUNG Chairman ALA3	- Discussion on whether it was appropriate to review the existing sections of the relevant Ordinances which were not directly related to the rail merger exercise	
013200 – 013554	Mr LAU Kong-wah Administration	<ul style="list-style-type: none"> <li>- Discussion on the need for the FAM to cover TSA bus fares</li> <li>- Discussion on the need for Administration to consult MergeCo before the Administration could disclose information contained in the Programme</li> </ul>	
013555 – 013942	Miss TAM Heung-man KCRC Administration Dr Fernando CHEUNG Ms Emily LAU Administration	<ul style="list-style-type: none"> <li>- Discussion on the availability of low floor buses under the TSA bus service</li> <li>- Discussion on whether it was the Administration's policy that all new buses purchased by the franchised bus companies should be low-floor buses</li> </ul>	Administration to take necessary follow-up action
013943 – 014212	Mr Andrew CHENG Administration	- Request for information to illustrate with examples how the permitted range of flexibility allowed under FAM would apply to TSA bus fares	Administration to take necessary follow-up action
014213 – 015553	Mr LEE Wing-tat Ms Emily LAU Administration Chairman Mr LEE Wing-tat KCRC	- Discussion on the need for Administration to consult MergeCo before the Administration could disclose information contained in the Programme and whether similar arrangement was in place for franchised bus companies under the Public Bus	

<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
		Services Ordinance (Cap. 230)  - Discussion on the consultation mechanism for the Programme  - Discussion on the need for introducing a new provision requiring MergeCo to disclose to the public information contained in the Programme  - Discussion on the timing for submission of the Programme	Administration to take necessary follow-up action
<i>Agenda Item III – Any other business</i>			
015554 – 015617	Chairman	Date of next meeting	

Council Business Division 1  
Legislative Council Secretariat  
7 August 2007