

立法會
Legislative Council

LC Paper No. CB(1)2390/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of thirty-fourth meeting on
Friday, 18 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 LEE Cheuk-yan
Dr Hon LUI Ming-wah, SBS, JP
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon CHAN Kam-lam, SBS, 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 Albert CHAN Wai-yip
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Hon Jeffrey LAM Kin-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
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 LEUNG Yiu-chung
Hon SIN Chung-kai, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon LI Kwok-ying, MH, JP
Hon LEUNG Kwok-hung
Hon CHEUNG Hok-ming, SBS, JP
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 David LAU
Principal Assistant Secretary for Financial Services and the Treasury
- Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice
- Miss Clara LEUNG
Government Counsel
Department of Justice
- Attendance by invitation** : MTR Corporation Limited
- Mr Leonard TURK
Legal Director & Secretary
- Mr Wilfred LAU
Head of Operations
- Ms Maggie SO
External Affairs & Government Relations Manager
- Mr Martin HANKS
Manager – Merger Coordination
- 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 Winnie CHENG
Legislative Assistant (1)5

Action

I Meeting with the Administration/the two railway corporations

- (LC Paper No. CB(1)1646/06-07(01) - Administration's response to the follow-up to Bills Committee meetings on clause-by-clause examination of the Bill (Second batch)
- LC Paper No. CB(1)1646/06-07(02) - The Administration's response to issues raised at previous meetings (Sixth batch)

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

2. The Chairman drew members' attention that in response to members' request at previous meetings, the Legal Service Division had prepared a paper entitled "Application of Rule 57(4)(a) of the Rules of Procedure and matters relating to the long title of the Rail Merger Bill" (LC Paper No. LS71/06-07) which had been circulated to members vide CB(1)1652/06-07 on 17 May 2007.

3. The Chairman also reminded members that the two meetings scheduled for 21 May 2007 at 8:30 am and 5:30 pm should be devoted to discussion of Committee Stage amendments (CSAs) to be moved by individual members to the Bill. In this connection, Mr Andrew CHENG requested to put on record his grave dissatisfaction with the hasty manner in which the Bill had been examined and said that his proposed

Action

CSAs might not be ready for the meetings on 21 May 2007. He said that problems had been identified with some provisions of the Bill in the course of scrutiny, and it was necessary to adopt a prudent approach to ensure that important issues would not be overlooked.

Substantial breakdown of service

4. Members noted the Administration's reply that whether a service breakdown was "substantial" had to be decided according to the facts of each case and it was not appropriate to list out the consideration factors. Ms Emily LAU requested the Administration to set out its policy intent and factors to be taken into account when determining whether a particular incident would be construed as a substantial failure or substantial breakdown of service by the post-merger corporation (MergeCo) when the Rail Merger Bill resumed the Second Reading debate. The Administration pointed out that as explained in the response, it would be difficult and not appropriate to draw a line on what was "substantial".

Provision of toilets at railway stations

5. Members welcomed MTR Corporation Limited (MTRCL)'s decision to include the provision of toilet facilities within, or adjacent to, stations in the overall design parameters for all future new railway lines, subject to planning and regulatory approval and views of local residents on the location of external ventilation exhausts. However, they noted with concern that the review of the feasibility of installing public toilets for the existing MTR stations would only focus on the eight above-ground MTR railway stations. They expressed disappointment that MTRCL had refused to consider retrofitting toilets for underground stations. In response, MTRCL highlighted the technical difficulties for the provision of toilet facilities at existing underground stations, in particular, the location of overhead line wires on top of the running tracks with a lot of electrical installations at both platform ends had made it difficult to identify suitable locations for retrofitting public toilets at the concourse level of underground stations. The corporation would take steps to raise awareness of the availability of staff toilets for the needy and review the signage in stations which provided information to passengers on the availability of public toilets nearby. The Chairman advised members that the Subcommittee on Matters Relating to Railways (the Subcommittee) would discuss the provision of lavatories in MTR stations at the next meeting scheduled for 16 July 2007.

The Motion

6. In view of members' deliberation and concerns on the provision of toilet facilities at railway stations, Mr Andrew CHENG moved the following motion which was seconded by Miss TAM Heung-man –

"本會強烈要求在鐵路車站範圍內，設置公共廁所，方便市民。"

Action

(Translation)

"That this Committee strongly urges the provision of public toilets within the areas of the stations for the convenience of the public."

7. The Bills Committee agreed to proceed with the motion. Mrs Selina CHOW proposed amendments to the motion as highlighted in bold type below

"本會強烈要求**地鐵公司訂立鐵路車站設置公共廁所的政策**，在鐵路車站範圍內，設置公共廁所，方便市民。"

(Translation)

"This Committee strongly urges **the MTR Corporation Limited to formulate a policy on the provision of public toilets at railway stations, and** to provide public toilets within the areas of the stations for the convenience of the public."

8. Mr WONG Kwok-hing proposed further amendments as highlighted in bold type below to the motion as amended by Mrs Selina CHOW

"本會強烈要求**政府責成**地鐵公司**儘快**訂立鐵路車站設置公共廁所的政策，在鐵路車站範圍內，設置公共廁所，方便市民。"

(Translation)

"This Committee strongly urges **the Government to instruct** the MTR Corporation Limited to **expeditiously** formulate a policy on the provision of public toilets at railway stations, and to provide public toilets within the areas of the stations for the convenience of the public."

9. Dr Fernando CHEUNG proposed further amendments to the motion as amended by Mrs Selina CHOW and Mr WONG Kwok-hing as highlighted in bold type below

"本會強烈要求政府責成地鐵公司儘快訂立鐵路車站設置公共廁所的政策，在鐵路車站範圍內，設置公共廁所，**包括設立獨立的傷殘人士廁所**，方便市民。"

(Translation)

"This Committee strongly urges the Government to instruct the MTR Corporation Limited to expeditiously formulate a policy on the provision of public toilets at railway stations, and to provide public toilets within the areas of the stations for the convenience of the public, **including separate toilets specially for persons with disabilities.**"

Action

10. The Chairman put Mr Andrew CHENG's motion as amended by Mrs Selina CHOW, Mr WONG Kwok-hing and Dr Fernando CHEUNG to vote. Except for the Chairman who did not exercise her voting right, of the members present, all voted for the motion. The Chairman declared that the motion was carried.

(Post-meeting note: The wording of the motion was circulated to members vide LC Paper No. CB(1)1668/06-07 on 21 May 2007.)

Exemption under the Public Health and Municipal Services Ordinance

11. Members noted that in respect of the Public Health and Municipal Services Ordinance (Cap. 132) (PHMSO), the scope of the existing exemptions granted under section 54(1) of the Mass Transit Railway Ordinance (Cap. 556) (MTRO) exempted MTRCL from the provisions relating to public toilets, whereas the Kowloon-Canton Railway Corporation Ordinance (Cap. 372) had not provided for similar exemption. To maintain the status quo, the Administration would introduce a CSA to the Bill to clearly stipulate that during the concession period, section 54(1) of MTRO (insofar as it relates to sections 3 and 4 of Schedule 2) did not apply in relation to any part of the franchise relating to the KCRC Railways. In response to Ir Dr Raymond HO's enquiry about how to determine whether a particular new railway project would be exempted from PHMSO, the Administration explained that a natural MTR-extension would be exempted whereas for those which were not natural MTR-extension, exemption would be granted for those new projects developed by MergeCo under the "ownership approach".

Employment of persons with disabilities (PwDs)

12. Members asked MTRCL to adopt the Government's guidelines for giving PwDs an appropriate degree of preference for appointment over other candidates in line with the Government's practice.

Follow-up actions

13. The Administration and the two railway corporations were requested to follow up on certain matters and provide information as detailed below –

- (a) MTRCL to take forward members' proposal with the MTRCL Board with a view to giving PwDs an appropriate degree of preference for appointment over other candidates after the rail merger;
- (b) The Administration to follow up on the exceedance cases of noise emitted near the non-enclosed stations arising from both road traffic and railway operation in the Panel on Environmental Affairs;
- (c) MTRCL to report to the Subcommittee on the progress of the following matters in six months' time:
 - (i) the provision of air cooling system and additional fans under station improvements works;

Action

- (ii) further measures to enhance in-train dissemination of information to passengers through various channels, including WiFi, 3G services and LED display panels inside the train compartments;
- (iii) advancement of the schedule to replace the maintenance machines/locomotives used for maintenance works of the KCR system by new and quieter models;
- (iv) measures to facilitate PwDs to use the KCRC bus service in the North-west Transit Service Area; and
- (v) progress of the publicity work, including placing directional signs, to raise the awareness of the availability of staff toilets for the needy and to inform the travelling public on the location of the public toilets near the stations.

II Any other business

14. There being no other business, the meeting ended at 1:08 pm.

**Proceedings of the thirty-fourth meeting of
the Bills Committee on Rail Merger Bill
on Friday, 18 May 2007, at 8:30 am
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 Discussion on the Administration's response to the follow-up to Bills Committee meetings on clause-by-clause examination of the Bill (Second batch)(LC Paper No. CB(1)1646/06-07(01))</i> | | | |
| 000000 – 000103 | Chairman | - Opening remarks | |
| 000104 – 000516 | Administration Chairman | - Briefing by the Administration on its response to the follow-up to Bills Committee meetings on clause-by-clause examination of the Bill (Second batch) (LC Paper No. CB(1)1646/06-07(01)) | |
| 000517 – 003649 | Ms Emily LAU Mr Andrew CHENG Chairman Mrs Selina CHOW Administration | - Discussion on the definition of "substantial breakdown of service" | |
| <i>Discussion on the Administration's response to issues raised at previous meetings (Six batch)(LC Paper No. CB(1)1646/06-07(02))</i> | | | |
| 003650 – 003859 | Chairman Administration | - Briefing by the Administration on item 1 of LC Paper No. CB(1)1646/06-07(02) | |
| 003900 – 004621 | Mr Andrew CHENG Mr WONG Kwok-hing MTR Corporation Limited (MTRCL) | - Discussion on the installation of additional fans and air cooling system to improve air ventilation at the non-enclosed stations | MTRCL to study and report to the Subcommittee on Matters Relating to Railways (the Subcommittee) in due course |
| 004622 – 004726 | Administration | - Briefing by the Administration on items 2 to 4 of LC Paper No. CB(1)1646/06-07(02) | |
| 004727 – 005859 | Mr WONG Kwok-hing Mrs Selina CHOW MTRCL Administration | - Discussion on the provision of radio reception on board the MTR trains and at railway stations - Discussion on how MTRCL could ensure timely dissemination of updated news information to passengers on board the MTR trains and at railway stations | MTRCL to study and report to the Subcommittee in due course |

| Time marker | Speaker | Subject(s) | Action required |
|--------------------|---|---|---|
| 005900 – 010444 | Mr Andrew CHENG Administration Kowloon-Canton Railway Corporation (KCRC) | - Mr CHENG's enquiry on the revenue from telecommunications companies and the relevant expenditure for telecommunications systems | |
| 010445 – 012615 | Miss TAM Heung-man Ms Emily LAU Mr Andrew CHENG Mr WONG Kwok-hing Administration MTRCL | - Discussion on the Administration's stance on requiring the railway corporations to provide radio reception on board the MTR trains and at railway stations | |
| 012616 – 013005 | Mrs Selina CHOW Chairman MTRCL | - Discussion on how MTRCL could ensure timely dissemination of updated information and news to passengers on board the MTR trains and at railway stations | |
| 013006 – 013823 | Mr Andrew CHENG Miss TAM Heung-man MTRCL | - Discussion on the recurrent expenditure incurred by MTRCL relating to the maintenance of the telecommunications system | |
| 013824 – 013846 | Administration | - Briefing by the Administration on item 5 of LC Paper No. CB(1)1646/06-07(02) | |
| 013847 – 014637 | Ms Emily LAU Ir Dr Raymond HO Chairman MTRCL Administration | - Discussion on the health implications of using WiFi | |
| 014638 – 014814 | Administration | - Briefing by the Administration on item 6 of LC Paper No. CB(1)1646/06-07(02) | |
| 014815 – 015911 | Dr Fernando CHEUNG Ms LI Fung-ying Ms Emily LAU Administration KCRC | - Discussion on retrofitting of existing buses serving the North-West Transit Service Area (TSA bus service) to provide low-floor entrance/exit for persons with disabilities (PwDs) - Discussion on the deployment of low-floor buses and KCRC's measures to facilitate PwDs to use these buses | |
| 015912 – 021456 | <i>Break</i> | | |
| 021457 – 021906 | Ms Emily LAU KCRC | - Discussion on the provision of updated information to PwDs on the availability of low-floor models for TSA bus service and assistance offered to them on using these buses | MTRCL/KCRC to take necessary follow-up action |

| Time marker | Speaker | Subject(s) | Action required |
|--------------------|--|---|---|
| 021907 – 022013 | Administration | - Briefing by the Administration on item 7 of LC Paper No. CB(1)1646/06-07(02) | |
| 022014 – 023617 | Ms Emily LAU Chairman Mr Albert CHAN Mrs Selina CHOW Administration | - Discussion on measures undertaken by the two railway corporations and the Administration to address exceedance cases which were above the noise limit of 70 db(A) and the way forward | Administration to take necessary follow-up action |
| 023618 – 023639 | Administration | - Briefing by the Administration on item 8 of LC Paper No. CB(1)1646/06-07(02) | |
| 023640 – 023948 | Mr Andrew CHENG Mr Albert CHAN Mr LAU Kong-wah Administration | - Mr CHENG's request for additional information on the noise level emitted from railway maintenance for the past years - Discussion on measures undertaken by KCRC to further reduce the noise level emitted from railway maintenance | Administration to take necessary follow-up action |
| 023949 – 024044 | Administration | - Briefing by the Administration on item 9 of LC Paper No. CB(1)1646/06-07(02) | |
| 024045 – 025553 | Ms Emily LAU Mr LAU Kong-wah Mr Albert CHAN Administration KCRC MTRCL | - Discussion on the schedule to replace the existing old locomotives/machines by new and quiet models for KCRC's maintenance works - Discussion on measures implemented by the two railway corporations in the past to mitigate the noise emitted from railway operation and maintenance | MTRCL to take necessary follow-up action |
| 025554 – 025705 | Administration | - Briefing by the Administration on item 10 of LC Paper No. CB(1)1646/06-07(02) | |
| 025706 – 032123 | Mr LAU Kong-wah Mr WONG Kwok-hing Ms LI Fung-ying Dr Fernando CHEUNG Miss TAM Heung-man Mr Albert CHAN MTRCL | - Discussion on the review on the feasibility of installing public toilets at or in the vicinity of existing MTR above-ground railway stations - Discussion on the cost implications and the technical and engineering difficulties of retrofitting existing MTR underground stations with public toilets - Discussion on imposing a new planning requirement on the post-merger corporation (MergeCo) to provide | |

| Time marker | Speaker | Subject(s) | Action required |
|--------------------|---|--|------------------------|
| | | <p>public toilets at all new railway stations</p> <ul style="list-style-type: none"> - Discussion on the provision of separate toilets for the use of PwDs at existing MTR stations - Discussion on improving the signage in MTR stations to inform passengers on the availability of staff toilets for the needy | |
| 032124 – 032742 | Mrs Selina CHOW Administration MTRCL | <ul style="list-style-type: none"> - Mrs CHOW's view that the Administration and MTRCL should change their policy to ensure that all new railway stations should be installed with toilets and all existing stations should be retrofitted with toilets as far as practicable | |
| 032743 – 032813 | Chairman | <ul style="list-style-type: none"> - Motion to be moved by members on the provision of public toilets at railway stations | |
| 032814 – 034537 | Ir Dr Raymond HO Mr LAU Kong-wah Chairman Mr Andrew CHENG Mr LEE Cheuk-yan Ms Emily LAU MTRCL Administration | <ul style="list-style-type: none"> - Discussion on the cost implications and the technical and engineering difficulties of retrofitting existing underground MTR stations with public toilets - Discussion on including a new provision in the integrated operating agreement requiring MergeCo to provide toilets at all railway stations | |
| 034538 – 035627 | Chairman Mrs Selina CHOW Ir Dr Raymond HO Mr WONG Kwok-hing Dr Fernando CHEUNG Miss TAM Heung-man Mr Andrew CHENG | <ul style="list-style-type: none"> - Discussion on the motion proposed by Mr Andrew CHENG and amendments proposed by members - Voting on the motion as amended by members | |
| 035628 – 035854 | Administration | <ul style="list-style-type: none"> - Briefing by the Administration on items 11 and 12 of LC Paper No. CB(1)1646/06-07(02) | |
| 035855 – 040358 | Mr LEE Cheuk-yan ALA3 Administration | <ul style="list-style-type: none"> - Discussion on the implications of not aligning the provisions in respect of the exemptions granted under section 54 of Mass Transit Railway Ordinance (Cap. 556) and section 35 of Kowloon-Canton Railway Corporation Ordinance (Cap. 372) | |

| Time marker | Speaker | Subject(s) | Action required |
|--|---|--|--|
| 040359 – 040901 | Ir Dr Raymond HO Administration | - Enquiry and explanation on the scope of exemptions granted to MTRCL and KCRC under the Buildings Ordinance (Cap. 123) and the Public Health and Municipal Services Ordinance (Cap. 132) | |
| 040902 – 040953 | Administration | - Briefing by the Administration on items 13 and 14 of LC Paper No. CB(1)1646/06-07(02) | |
| 040954 – 043249 | Dr Fernando CHEUNG Mr LEE Cheuk-yan Ir Dr Raymond HO Chairman Ms Emily LAU MTRCL Administration | <ul style="list-style-type: none"> - Dr CHEUNG's enquiry and MTRCL's explanation on the details of the volunteering scheme "More Time Reaching Community Scheme" and how the scheme could help encourage the two railway corporations to employ more PwDs - Discussion on the initiative to set a target for employment of PwDs after the rail merger - Discussion on the need for MergeCo to adopt the Government's guidelines for giving PwDs an appropriate degree of preference for appointment over other candidates | MTRCL to take necessary follow-up action |
| 043250 – 043419 | Chairman Mr LEE Cheuk-yan Ir Dr Raymond HO | - Meetings on 21 May 2007 for members to introduce their CSAs to the Bills Committee | |
| <i>Agenda Item II – Any other business</i> | | | |
| | Chairman | - Date of next meeting | |