

立法會
Legislative Council

LC Paper No. CB(1)448/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of sixth meeting on
Thursday, 2 November 2006, at 8:30 am
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-yee, 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 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 Jeffrey LAM Kin-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon CHEUNG Hok-ming, SBS, JP
Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man
- Members absent** : Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon LEE Wing-tat
Hon LI Kwok-ying, MH, JP
Hon LEUNG Kwok-hung
Hon Ronny TONG Ka-wah, SC
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 David LAU
Principal Assistant Secretary for Financial Services and the
Treasury

Mr Sunny CHAN Yuen-sun
Senior Government Counsel
Department of Justice

Mr Lewis LAW Chung-ming
Government Counsel
Department of Justice

Attendance by invitation : MTR Corporation Limited

Mr Lincoln LEONG
Finance Director

Mr Eddie SO
Senior Transport Planning Manager

Mrs Miranda LEUNG
General Manager – Corporate Relations

Ms Maggie SO
External Affairs & Government Relations Manager

Kowloon-Canton Railway Corporation

Mr Raymond CHAN
General Manager – Financial Control

Mr Victor LEUNG
Marketing Manager – Service Planning

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 Confirmation of minutes and matters arising

(LC Paper No. CB(1)145/06-07 -- Minutes of meeting on 5 October 2006)

The minutes of the meeting held on 5 October 2006 were confirmed.

2. The Bills Committee endorsed the meeting schedule for the Bills Committee up to March 2007 which was tabled at the meeting and circulated to members after the meeting vide LC Paper No. CB(1)223/06-07.

II Fare-related matters arising from the rail merger

(LC Paper No. CB(1)195/06-07(01) - Information paper on fare adjustment mechanism and fare reduction proposal provided by the Administration)

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

Admin/
MTRCL

4. The Administration/MTR Corporation Limited was requested to provide the following further information before the next meeting on 14 November 2006 –

General

- (a) Details of synergies of the rail merger and the basis of calculation;
- (b) In what way would overseas investment of the post-merger corporation (MergeCo) affect its fares in future, in particular if investment losses were incurred by MergeCo;

Action

- (c) Overseas experience of fare regulation, how their mechanism evolved and how it affected the operation and performance of railway services;
- (d) Projections of the financial performance for MergeCo for the ten years after the rail merger as commissioned by the Administration or the two railway corporations;

Fare adjustment mechanism (FAM)

- (e) Illustrations in the form of a table showing the actual working of applying the permitted range for adjusting individual fares of MergeCo which were subject to FAM (Controlled Fares) under different situations, and factors that would be taken into account by MergeCo in finalizing the rate of adjustment to individual Controlled Fares;
- (f) Justifications for providing MergeCo with the flexibility to adjust individual Controlled Fares within the range of ± 10 percentage points from the overall fare adjustment rate under the FAM, bearing in mind the FAM for franchised bus companies did not provide for such flexibility;
- (g) How the Administration/MergeCo would address the public concern that railway fares would be subject to significant changes if the proposed adjustments to individual Controlled Fares within the permitted range were allowed, and how it would be seen as fair and acceptable to the travelling public to apply different rates of fare increase/decrease for different fares within the railway network;
- (h) Given that the FAM formula did not include any factor to reflect the profits received from property development by MergeCo, whether the Administration would consider using part of the profits from property development to set up a fare stabilization fund, or modifying the FAM to take into account profits from property development so as to moderate the rate of fare increase;
- (i) In view of the uncertainty over the permitted rate of increase under the FAM, whether the Chief Executive-in-Council or Legislative Council should be given certain degree of control over future fare adjustments and whether a cap should be imposed on the rate of fare increase;
- (j) Given that the scope for productivity gain for railway operation was limited, the inclusion of the productivity factor in the FAM might lead to a higher rate of fare increase in the end, particularly when productivity would likely reduce in future with the diminishing contribution from property development. What were the current value of the productivity factor of the railways and the projection of the values of productivity factor of MergeCo for the next ten years;

Action

- (k) Illustration of the hypothetical changes of railway fares over the past period, say 30 years, by applying the FAM formula;

Existing concessionary and promotional programmes

- (l) Whether the existing interchange concessions offered by the two railway corporations would continue after the merger. Whether the gains of the travelling public from fare reduction packages would be offset by the cancellation of interchange concessions;

Concessionary fares for persons with disabilities

- (m) Whether an undertaking could be given by the Administration to grant concessionary fares to persons with disabilities (PwDs) if a clear definition of PwDs was available to determine the number of potential beneficiaries; and
- (n) The railway corporations' projection on the number of PwDs that would be eligible for concessionary fares, the financial implications for providing such concession and the basis of their calculation.

- Clerk 5. The Chairman instructed the Clerk to circulate the relevant parts of the Report of the Panel on Transport's Delegation to Study Mass Transit Systems in Overseas Cities dated April 1997 to members for their reference.

(Post-meeting note: The relevant parts of the Report were circulated to members vide LC Paper No. CB(1)227/06-07 on 3 November 2006.)

6. The Chairman reminded members that the next Bills Committee meeting was scheduled for Tuesday, 14 November 2006, at 4:30 pm to continue discussion on fare-related matters arising from the merger.

III Any other business

7. There being no other business, the meeting ended at 10:30 am.

**Proceedings of the sixth meeting of
the Bills Committee on Rail Merger Bill
on Thursday, 2 November 2006, at 8:30 am
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes and matters arising</i>			
000000 – 000032	Chairman	Confirmation of minutes of the meeting held on 5 October 2006 (LC Paper No. CB(1)145/06-07)	
<i>Agenda Item II – Fare-related matters arising from the rail merger</i>			
000033 – 000136	Chairman	Endorsement of the meeting schedule up to March 2007	
000137 – 001548	Chairman Administration MTR Corporation (MTRCL)	Briefing by the Administration and MTRCL on fare reduction package arising from the rail merger, the fare adjustment mechanism (FAM) and the major provisions of the FAM (LC Paper No. CB(1)195/06-07(01))	
001549 – 002050	Mr LAU Kong-wah Administration MTRCL	<ul style="list-style-type: none"> - Mr LAU Kong-wah's expression of concern about the deficiency in the FAM formula which had not taken into account the property development profits and might consequently give rise to a higher rate of fare increase than the existing one under the fare autonomy - Mr LAU's expression of concern about the flexibility accorded to the post-merger corporation (MergeCo) to adjust individual Controlled Fares within the permitted range of ± 10 percentage points (permitted range) from the overall fare adjustment rate under the FAM which would mean that there was no real control over the rate of fare increase and that long distance fares might be subject to a higher rate of increase as a result - Administration/MTRCL's explanation that FAM was more transparent and objective than the fare autonomy currently enjoyed by the two railway corporations. Unlike a profit control scheme, FAM was a price control regime under which the rail fares would be adjusted with reference to changes in price and wage indices. Profits from property development had already been taken into account when the initial 	

Time marker	Speaker	Subject(s)	Action required
		<p>railway fares were set. Although the permitted range would allow MergeCo some limited flexibility in adjusting individual fares, the overall fare decrease or increase rate in any year must be equal to the overall fare adjustment rate calculated under the FAM and therefore MergeCo would not be able to get extra profits.</p>	
002051 – 002653	Mr Jeffrey LAM MTRCL	<ul style="list-style-type: none"> - Mr Jeffrey LAM's expression of concern about the application and determination of the permitted range of fare increase and how the weighted average of all Controlled Fares would be adjusted - Mr LAM's expression of concern about the role of Legislative Council (LegCo) in monitoring the FAM and how to address the public's concern on alleged unfairness in adopting different rate of fare increase/decrease for different fares within the railway network in future - MTRCL's explanation on the working of the FAM. The permitted range of fare increase rate for individual fares was intended to provide a flexible mechanism for MergeCo to respond to market changes. The public transport market in Hong Kong was highly competitive and market competition would be a strong factor in determining individual fares within the permitted range 	
002654 – 003201	Mr WONG Kwok-hing Administration	<ul style="list-style-type: none"> - Mr WONG Kwok-hing's expression of concern about how profits from property development could help moderate the rate of fare increase and whether the Administration would undertake to provide concessionary fares to persons with disabilities (PwDs) if a clear definition of PwDs was available to determine the number of potential beneficiaries - Administration's explanation that the proposed fare reduction was made possible by synergies to be achieved as a result of the rail merger. The initial railway fares were set after taking into account the expected property 	

Time marker	Speaker	Subject(s)	Action required
		<p>development profits</p> <ul style="list-style-type: none"> - Administration's explanation that public transport operators had expressed concern about the large number of potential beneficiaries and the resultant financial implications in providing fare concessions to PwDs. The subject matter was being followed up by a subcommittee formed under the House Committee 	
003202 – 004044	Mr Andrew CHENG Chairman MTRCL Administration	<ul style="list-style-type: none"> - Mr Andrew CHENG's expression of concern that as the FAM formula did not include any factor to reflect the profits received from property development by MergeCo, railway fares would be subject to a high rate of increase. The flexibility granted to MergeCo to adjust railway fares within the permitted range might result in a higher rate of increase for long haul passengers. Government should therefore consider using part of the profits from property development to set up a fare stabilization fund, or modifying the FAM to take into account profits from property development to moderate the rate of increase. The Chief Executive-in-Council or Legislative Council should be given certain degree of control over future fare adjustments in view of the uncertainty over the permitted rate of increase under the FAM - MTRCL's clarification on the working of the FAM. The public transport market in Hong Kong was highly competitive and market competition would be a strong factor in determining individual fares - Administration's explanation that whilst the permitted range allowed some limited flexibility for MergeCo to adjust individual fares, the overall fare increase or decrease rate in any year must be equal to the overall fare adjustment rate calculated under the FAM. It should be noted that the FAM was intended to be used throughout the 50-year franchise period of MergeCo, during which the fare structure and levels of other modes of transport might 	

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		<p>have changed significantly and therefore the FAM should give some flexibility for MergeCo to respond to changes in the transport market</p>	
004045 – 004816	Mr CHAN Kam-lam Administration MTRCL	<ul style="list-style-type: none"> - Mr CHAN Kam-lam's expression of concern about the public sentiment if MergeCo would apply different rates of fare increase/decrease for different fares within the railway network and whether the inclusion of the productivity factor in the FAM might lead to a higher rate of fare increase in the end, particularly when productivity would likely reduce in future with the diminishing contribution from property development - Administration's explanation that the scope for productivity gain for railways was limited due to heavy investment and long pay-back period. Despite a negative value for the productivity gain for the railway industry, Government had achieved an understanding with MTRCL, as part of the overall merger deal, to set the productivity factor at zero for the first five years and a value of 0.1% starting from the sixth year of the rail merger. Value of the productivity factor would be subject to review in the context of future reviews of the FAM - MTRCL's explanation on how the fare structure could be changed within the permitted range 	
004817 – 005345	Ms LI Fung-ying Administration	<ul style="list-style-type: none"> - Ms LI Fung-ying's expression of concern about the exclusion of certain railway services from the proposed fare reduction package and the justifications for appointing an additional independent expert (i.e. Second Independent Expert) for certifying that the fare adjustments were in compliance with the FAM - Administration's explanation that FAM would be applicable to all domestic lines but not to other special lines such as Airport Express Line and intercity services - Administration's explanation that 	

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		<p>independent third party certification was to ensure the decision of MergeCo on the adjustments to Controlled Fares in the relevant year complied with the FAM. Unless the FAM dictated that there should be no adjustment to the Controlled Fares in a particular year, MergeCo would be required to appoint an additional independent expert for the fare review in that year. The selection of the additional independent expert should be subject to Government's agreement</p>	
005346 – 010017	Dr Fernando CHEUNG Administration	<ul style="list-style-type: none"> - Request for illustration of the hypothetical changes of railway fares for the past 30 years by applying the FAM formula by Dr Fernando CHEUNG - Dr CHEUNG's expression of concern that the Government did not retain certain degree of control over railway fares and did not have the determination to require operators to offer concessionary fares to PwDs - Administration's explanation that the proposed FAM would regulate railway fares in the future in an objective and transparent manner. It was not appropriate to artificially apply the fare adjustment formula retrospectively as the circumstances in the past were different from those under the proposed merger and the formula was to apply to the future situation with fares to be reduced on the first day of the rail merger - Administration's explanation that currently both MTRCL/KCRC had fare autonomy. The merger discussions with the railway corporations had, among other things, resulted in their agreement to adopt the proposed FAM as part of the overall merger deal. Direct involvement of the Government or Parliament in the fare revision process, as indicated in other overseas economy, could undermine capital investment and lead to declining service quality 	

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010018 – 010603	Mr Albert HO Administration	<ul style="list-style-type: none"> - Mr Albert HO's expression of concern about the lack of an effective monitoring mechanism for controlling the rate of fare increase. As such, Government should consider imposing a cap on the rate of fare increase so as to avoid the undesirable situation in the Western Harbour Crossing where Government and LegCo could do nothing to stop the tunnel toll adjustment notwithstanding the wide public concern about excessive tolls charged by the operator - Administration's explanation that a more objective and transparent FAM would be introduced. Future fares would go down or go up according to a fare adjustment formula that was linked to the rates of change of the consumer price index and a wage index. In economic terms, the effect of the FAM was that there would not be any increase of railway fares in real term. On the first day of the rail merger, railway fares would be reduced according to the fare reduction package. Thereafter, railway fares would be adjusted according to the FAM on the basis of the reduced fare levels. To impose a cap on the rate of fare increase might adversely affect the financial situation of MergeCo and, in turn, its service level. Toll levels of Western Harbour Crossing were linked to the protection of its revenue level and hence it was inappropriate to compare the FAM with that model. The FAM to be adopted by MergeCo was intended to regulate railway fares based on an objective and transparent formula rather than the revenue of MergeCo 	
010604 – 011123	Ms Emily LAU Chairman MTRCL Administration	<ul style="list-style-type: none"> - Request for information showing the actual working of applying the permitted range to individual Controlled Fares by Ms Emily LAU - Request for information on overseas experiences of fare regulation, how the mechanism evolved and how it affected the operation and performance of railway services by Ms LAU - Request for information prepared by the delegation of the Panel on Transport to 	The MTRCL and Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		<p>study the monitoring systems for city rails in 1997 by Ms LAU</p> <ul style="list-style-type: none"> - Ms LAU's expression of concern about the application of different rates of fare increase/decrease for different fares within the railway network and how these would be seen as fair and acceptable to the general public - Administration/MTRCL's explanation that FAM needed to provide some limited flexibility to allow MergeCo to respond to market changes. The flexibility for determining individual fares within the permitted range aimed at striking a right balance between commercial interest and public interest 	
011124 – 011659	Miss TAM Heung-man Administration MTRCL	<ul style="list-style-type: none"> - Miss TAM Heung-man's expression of concern about (a) how the property development profits would benefit the travelling public, (b) how cost apportioning would affect the rates of fare increase for different fares within the railway network, (c) the work of the independent third party experts and (d) provision of information to LegCo in future fare adjustment exercises - Administration's explanation that the property package would be sold to MTRCL on market terms and it was not a subsidy. Initial railway fares were set taking into account the expected property development profits - The engagement of independent third party experts was intended to strengthen the recognition of the FAM - Administration/MTRCL's explanation that the FAM was not linked to the cost of MergeCo but the rates of change of the consumer price index and a wage index as published by the Census and Statistics Department 	
011700 – 012115	Mr CHEUNG Hok-ming Administration	<ul style="list-style-type: none"> - Mr CHEUNG Hok-ming's expression of concern about the exclusion of Airport Express Line, Lo Wu and Lok Ma Chau Spur Line services from the fare reduction package 	

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		<ul style="list-style-type: none"> - Administration's explanation that the objective of the fare reduction package which was made possible by the synergies arising from the rail merger was to benefit daily commuters for domestic travel. The fare reduction package was the result of detailed discussions and negotiation with MTRCL. Priority was given to help relieve the financial burden of transport fares on long-haul passengers 	
012116 – 012706	Dr LUI Ming-wah Administration MTRCL	<ul style="list-style-type: none"> - Dr LUI Ming-wah's expression of concern about the rationale for pitching the multiplier factors of the FAM formula at 0.5, the effect of having a negative productivity factor on the overall fare adjustment rate, and the reasons for excluding property development profits in the formula - Request for illustration of hypothetical changes of railway fares over the past years by applying the FAM formula by Dr LUI - Administration's explanation that as part of the merger package, an objective, transparent and predictable FAM would be introduced to adjust rail fares. FAM would be linked to the changes in the consumer price index, a wage index and a productivity factor. The effect of the FAM was that there would not be any increase of rail fares in real term. Productivity gain for railways was currently a negative value due to the heavy capital investment and long pay-back period for the railway industry. The Administration however was able to achieve an understanding with MTRCL to set the productivity factor at zero for the first five years and a value of 0.1% starting from the sixth year of the rail merger. The Administration's intention was that the productivity factor should have the effect of moderating future fare increases or increasing the level of fare reduction - MTRCL's view that in agreeing to the adoption of the FAM, MTRCL was already giving up fare autonomy. The merger transaction was a finely 	

Time marker	Speaker	Subject(s)	Action required
		balanced deal that provided some benefits to all stakeholders	
012707 – 013239	Mr Albert CHAN Administration	<ul style="list-style-type: none"> - Mr Albert CHAN's expression of regret that fare reductions were bundled with the rail merger as railway corporations should have reduced their fares one year before - Request for information on the projections of the financial performance for MergeCo for the ten years after the rail merger by Mr CHAN - Mr CHAN's expression of concern about the lack of an effective mechanism to regulate the profit level of MergeCo to safeguard public interest - Administration's explanation that unlike a profit control scheme where a cap was imposed on the allowable level of rate of return, FAM was already an effective mechanism for regulating railway fares and replaced the existing fare autonomy of the railway corporations. It was objective, transparent and predictable - Administration's remark that it had not made any projections of the financial performance for MergeCo 	
013240 – 013828	Mrs Selina CHOW Chairman MTRCL	<ul style="list-style-type: none"> - Mrs Selina CHOW's expression of support for the introduction of a more objective and transparent FAM to avoid future dispute over railway fare adjustments, and the provision of some limited flexibility in the FAM to allow MergeCo to respond to market changes - Mrs CHOW's expression of concern about whether public affordability would be considered when applying the FAM formula for future fare adjustments, and the relationship between property development and railway fares - MTRCL's explanation that it would consider the level of public acceptance when setting railway fares. Market competition would be a strong factor in determining individual fares, given that the public transport market in Hong 	

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		<p>Kong was highly competitive</p> <ul style="list-style-type: none"> - MTRCL's elaboration on the relationship between property development and railway fares 	
013829 – 014314	Mr Patrick LAU Administration MTRCL	<ul style="list-style-type: none"> - Mr Patrick LAU's expression of concern about the synergies arising from the rail merger and how they were reflected in the reduced fares - Administration's explanation that although the fare reductions would be mostly financed from synergies, fare reductions would be implemented on the first day of the rail merger while synergies would take up to three years to materialize - MTRCL's elaboration on the benefits of the rail merger, including reduced fares, introduction of an objective, transparent and predictable FAM, improvement on existing interchange arrangements in the short term and provision of seamless interchange arrangements in the long term with future extensions 	
014315 – 014522	Chairman Mr WONG Kwok-hing MTRCL	<ul style="list-style-type: none"> - Mr WONG Kwok-hing's expression of concern about the scope of the fare reduction package and the different rates of fare decrease for different fares within the railway network - MTRCL's explanation that fare reduction package was arrived at after considering the optimal allocation of savings from synergies arising from the rail merger. Journeys charging between \$8.5 and \$11.9 would have a minimum of 5% reduction - Request for information by Mr WONG 	Administration to take necessary follow-up action
014523 – 015038	Mr Andrew CHENG Mr CHAN Kam-lam Dr Fernando CHEUNG	<ul style="list-style-type: none"> - Request for information by members 	Administration to take necessary follow-up action
015039 – 015342	Mr Albert HO Administration	<ul style="list-style-type: none"> - Request for information by Mr Albert HO - Mr HO's expression of concern that Northwest New Territories residents who travelled on Light Rail service 	Administration to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		<p>could not benefit from the fare reduction package and this would not be conducive to soliciting support from LegCo Members returned from the New Territories West Geographical Constituency for the Bill</p> <ul style="list-style-type: none"> - Administration's previous remark that the fare reduction package was a balanced proposal. Its financial impact on MergeCo was already higher than the expected synergies. The Light Rail system had been operating at a loss for nearly 20 years since its commissioning and required cross-subsidy from the operation of other rail lines. It would not be a healthy development to perpetuate or aggravate such situation. 	
015343 – 015558	Ms Emily LAU MTRCL	<ul style="list-style-type: none"> - Request for information by Ms Emily LAU - Ms LAU's expression of concern about the provision of concessionary fares to PwDs and senior citizens - MTRCL's explanation that concessionary fare for senior citizens was part of the fare reduction package and if the offer was made permanent, this would have to use up part of the synergies arising from the rail merger. MergeCo would offer concessionary and promotion fare schemes from time to time in response to public demand 	Administration to take necessary follow-up action
015559 – 015805	Mr Albert CHAN	<ul style="list-style-type: none"> - Request for information by Mr Albert CHAN 	Administration to take necessary follow-up action
015806 – 015919	Chairman MTRCL	<ul style="list-style-type: none"> - The Chairman's expression of concern whether different fare discounts would be offered to students travelling on the MTR and Kowloon-Canton Railway (KCR) systems after the rail merger - MTRCL's explanation that after the rail merger, the existing student fare discount would be maintained, i.e. students would continue to enjoy half fares when travelling on MTR but not KCR. A new fare table for students for the merged railway system would be devised to incorporate the respective 	

Time marker	Speaker	Subject(s)	Action required
		fares on MTR and KCR systems.	
<i>Agenda Item III – Any other business</i>			
015920 – 020107	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
8 December 2006