

Bills Committee on Rail Merger Bill

Latest Progress of Staff-related matters arising from rail merger

PURPOSE

This paper updates members on the latest progress regarding staff-related matters arising from the merger exercise.

LATEST PROGRESS

2. Since the announcement of the merger proposal in April last year, the two corporations have maintained close communication with their staff on subjects which are of their concern and organized over 200 briefing sessions for staff. The two corporations reported that they have reached mutual agreement / understanding with their staff organisations and the five unions on various staff-related matters. The **Annex** gives a detailed account of the progress in respect of individual staff-related matters, and the corporations and the unions have confirmed their agreement / understanding.

3. We welcome that the corporations and the staff side have reached mutual agreement / understanding. The following highlights a few more important items:

(A) Protection of job security for frontline staff and related matters

After a thorough staff consultation exercise, the two corporations confirmed a list of frontline positions which covers 8,460 staff members, accounting for more than 80% of the non-managerial staff of the two corporations. Frontline staff do not need to go through selection and will be transferred directly to the post-merger corporation (MergeCo) upon the rail merger. In addition, the corporations have established a fair and equitable selection mechanism, and have announced the terms of a Voluntary Separation Scheme which will be offered to non-frontline staff as an additional option for the staff concerned.

(B) Protection on salary, benefits and salary scale

The two corporations have committed that staff's existing salary and benefits associated with each staff member's existing grade as well as the existing salary scales for all non-managerial staff will be protected by upon the rail merger. This commitment has addressed a major concern of staff.

(C) Major terms and conditions of employment

Last December, the two corporations announced details of the major terms and conditions for employment for MergeCo which are generally accepted by staff. Working hours, retirement benefits, medical benefits, free travel on the railway system, annual leave and overtime allowance are included.

Staff of MergeCo will enjoy free travel on the combined network upon the rail merger. As the existing KCRC staff's parents are eligible for free travel on the KCR network, the corporations considered that the staff affected may need some time to adjust to the new arrangement and has therefore agreed to offer a transitional arrangement.

The corporations have also agreed to relax the eligibility criteria for overtime allowance after the rail merger, taking into account concerns of staff on overtime allowance and the unique nature of a few types of jobs.

(D) Issuance of employment letter to staff

The corporations confirmed that all staff would receive a formal letter before implementation of the rail merger indicating that the staff will be transferred to MergeCo upon the rail merger on the prevailing terms. Such letter will also specify the MergeCo grade, terms and conditions for employment for frontline staff.

Summary Report on Progress and Results of Staff Issues Related to the Rail Merger

Introduction

Since the announcement of the proposed rail merger on 11 April 2006, both MTR Corporation and Kowloon-Canton Railway Corporation (KCRC) have established various communication channels to enable staff to raise questions and provide feedback on matters related to the merger. The two Companies have also established a communication mechanism with the five unions, under which consultation meetings are held regularly to discuss matters related to the merger. Committed to communicating to staff whenever possible, the two Companies have made every effort to communicate to all staff upon reaching major HR milestones throughout this process. Thus far, the two Companies have communicated with all staff on issues that they concern most through many mass briefings or through their respective departments. Major items that have been communicated include the definition of frontline staff, appeal mechanism, salary protection principles and status of the MergeCo grading structure design, major Terms and Conditions of Employment for MergeCo, staff arrangement process and the Voluntary Separation Scheme. Feedback from staff on these matters has been generally positive. With the established communication channels, staff can express their opinions directly or through staff organisations (including staff unions). At the same time, the companies have been able to listen to staff through these channels and address staff concerns. Before final decisions are made on each key HR matter, both Companies have listened to staff's concerns and have taken into account their opinions. The following summarises the good progress and achievements made so far over the past year:

1. Job Security for Frontline Staff

Both Companies have committed to providing Frontline Staff with job security as it relates to the merger integration process. The defined list of frontline positions was announced in mid-August 2006, followed by a thorough staff consultation exercise. After consulting the views of staff (including staff unions), HR departments and department managers have carefully reviewed the cases identified,

giving due consideration to the job nature of each of them. The two Companies announced the revised list of frontline positions in September 2006. The number of Frontline Staff of KCRC increased from 4,278 to 4,302; while that of MTR Corporation also increased from 4,117 to 4,158. More than 80% of non-managerial staff (excluding property and project departments) are provided with job security.

2. Appeal Mechanism for Merger-related Staff Issues

In September 2006, MTR Corporation and KCRC agreed with their respective staff organisations (including staff unions) on the appeal mechanisms for staff issues related to the merger. The appeal mechanisms ensure that cases would be ruled independently, objectively and professionally based on the principles of fairness and equity. The mechanisms are based on the existing mechanisms that have been used by the two Companies, and they are further enhanced after taking into account the views of staff organisations (including staff unions). For example, at MTR Corporation, the staff representative who accompanies the staff to sit in the appeal hearing may include any Staff Consultative Council (SCC) Councillor, union representative or any other staff member of the MTR Corporation, and can assist the appellant to supplement, clarify or explain the statements made in the hearing; the mechanism has also been extended from two tiers (appeal up to the department heads) to three tiers (appeal up to divisional directors). At KCRC, it is stipulated that the members of the appeal panel should be at least the managerial level; results of all appeal cases in the second level should be submitted to the Chief Executive Officer or his/her representative for endorsement before announcement. These mechanisms have already been implemented. When the need for an integrated appeal mechanism arises during the merger process, the two Companies will initiate further discussions with staff and staff unions.

3. Salary Protection and Status on Grading Structure

Both Companies understand that staff are most concerned in matters regarding their individual salaries and their job grading. Therefore, in December 2006, the Companies have already committed to protecting staff's existing salaries and benefits associated with each staff member's existing grade, as well as protecting the existing salary scales of non-managerial staff. As a result of this commitment, for non-managerial staff, if the new salary scale is higher than the

existing one, he/she will immediately enjoy a higher scale upon appointment to the new grade. Otherwise, he/she will retain the existing scale, which will be frozen until the new scale matches or exceeds his/her existing one. This arrangement represents maximum protection to staff and therefore staff should not have any concerns over the impact of the new grading structure. In general, no other merger cases would have arranged such protection for staff. We learn from various channels that feedback from staff is generally very positive.

Regarding the status of the MergeCo grading structure design, Hay Group, the independent consultant jointly appointed by both Companies, has submitted its preliminary recommendations regarding the MergeCo's grading structure in mid-March 2007. The two Companies are now carefully reviewing the recommendations. The review is complex, as it involves a thorough study of the structure and functions of every department of MergeCo, as well as careful consideration on how the existing grading structures of the two Companies can fit into the new structure to ensure a smooth transition. We expect to complete the review in three to four months' time. In regard to salary scales, these will also be considered in the light of the latest updates from the 2007 market data on pay revisions after July this year. Management has committed to announce the MergeCo grading structure when the Voluntary Separation Scheme is launched, and expect to share the details with staff and staff unions in August or September this year. We have reached consensus with staff and staff unions of the abovementioned timeframe.

4. Major Terms and Conditions of Employment

The two Companies understand that Terms and Conditions of Employment (T&C) have been a key concern for staff. Therefore, after listening to staff's views through various channels, the two Companies have already communicated the 8 major T&C in December 2006. Key points are summarised as follows:

- (a) Many colleagues will enjoy better terms under the new arrangement. For example, the weekly working hours for KCRC staff will be reduced from 45 to 42, equivalent to a 7% reduction. Overtime allowance rate for staff of MTR Corporation will be increased from 1 times hourly rate to 1.35 times, which is higher than the existing rate.

- (b) Retirement and medical benefits as well as annual leave entitlement, for which staff have expressed the most concern, will remain unchanged.
- (c) All staff will be eligible for free travel on the combined network of MTR and KCR.

The feedback from staff on these major T&C, as a total package, is generally positive. Since the announcement, the two Companies have conducted many communication sessions with staff and staff unions to hear their views. The progress achieved so far is summarised below:

4.1 Weekly Working hours

- (a) Terms announced:
 - Staff of MTR Corporation currently working at 42 hours per week will maintain the same working hours; while those working at 39.25 hours per week will have their weekly working hours reduced to 39 hours.
 - KCRC staff currently working at 45 hours per week will have their weekly working hours reduced to 42 hours, equivalent to a 7% reduction; while those working at 39 hours will maintain the same hours.
- (b) Staff's and unions' feedback or views:
 - They agreed with such arrangement.

4.2 Retirement Benefits

- (a) Terms announced:
 - The management teams from both sides understand the retirement benefits are one of the key staff concerns and have announced that the retirement benefits for all existing staff will remain unchanged.
- (b) Union's feedback or views:
 - KCRC's union requested that supplementary notes be added to relevant clauses on retirement scheme in the Rail Merger Bill to ensure that, for KCRC staff, the accrued retirement benefits contributed by the employer will be vested in the employee upon leaving the Company after the Appointed Day regardless of the reason for their departure or termination in MergeCo.

- (c) Management responses:
- Management understands the concern of KCRC staff that upon dismissal, the accrued benefits contributed by the employer in their existing Retirement Scheme, Provident Fund or other retirement benefits would be forfeited regardless of the termination reason. The existing Trust Deed and Rules of MTR Corporation Limited Retirement Scheme contain clauses that address staff concerns in this regard. KCRC management has promised that, with reference to the Trust Deed and Rules of MTR Corporation Limited Retirement Scheme, the same clauses will be added to the existing KCRC Retirement Scheme before the Appointed Day. This should be able to address KCRC staff concerns. The relevant clauses are:
 - (i) If any Member shall be dismissed without notice or payment in lieu of notice from the service of the Corporation for having misconducted himself in a gross and either a wilful or malicious manner in circumstances where such misconduct resulted or was likely to result in financial loss or damage to the Corporation or its property or in serious bodily injury to any person and the Trustees are satisfied that the dismissal was duly made for such misconduct, then the value of any of the Corporation's contributions will be forfeited.
 - (ii) If the Trustees are of the opinion that there are exceptional circumstances and have been advised by the Human Resources Management Department of the Corporation that there are such exceptional circumstances and no or only a portion of the value of any of the Corporation's contributions shall be forfeited, the Trustees may in their discretion (as the case may be) determine that no portion or only a portion of the value of any of the Corporation's contributions will be forfeited and apply any balance of such value in such manner and in such proportion as the Trustees in their discretion may determine.
 - Unions agreed with the above arrangement.

4.3 Medical Benefits

- (a) Terms announced:
 - Currently both Companies provide full and unlimited medical coverage for staff, their spouse and dependent children. We understand that medical benefit is another important concern for staff, and therefore have decided that all medical benefits for existing staff will remain unchanged.
- (b) Staff's and unions' feedback or views:
 - They agreed with such arrangement.

4.4 Free Transport

- (a) Terms announced:
 - Existing staff of the two Companies will be eligible for free travel on the combined network, immediately effective from the Appointed Day.
 - For all MTR staff's spouse and dependent children, existing terms on free transport will apply; they will be eligible for free transport on both MTR and KCR network.
 - All KCRC staff's spouse and dependent children will also enjoy free transport on MTR and KCR network, according to MergeCo eligibility terms.
 - There are differences in existing free transport benefits between MTR and KCRC:
 - i) Existing KCRC staff's parents are eligible for free transport on KCRC network; no such arrangement is available in MTR.
 - ii) Existing KCRC staff, upon age of 60, or with at least 10 years of service upon age of 50, are eligible for a retirees' pass both for themselves and for their spouse. In MTR, staff must reach the age of 60 with at least 10 years of service, or reach 55 with at least 25 years of service to be eligible for free transport upon age of 60. Their spouse must also reach the age of 60 to be eligible.
 - iii) Currently, KCRC staff's dependent children aged 21 to below 25 if in local full-time study are eligible for free transport; no such arrangement is available in MTR.

The management team has decided to allow KCRC staff to keep the above free transport eligibility terms for their parents, spouse, dependent children and retiree ticket, but the benefit is applicable to KCRC network only. In addition, staff will have a one-off irrevocable option to choose the same eligibility terms as existing MTR staff, including staff and spouse retiree's pass eligibility and the eligibility terms for his/her spouse and dependent children but without parental eligibility on the combined network. Such option can be exercised any time during their employment.

(b) Staff's and unions' feedback or views:

- The unions requested that KCRC staff do not have to opt and enjoy the spouse and dependent children free ticket on the combined network, as well as free parent ticket on KCRC network.
- Staff and the unions have also requested that MTR Corporation to model on KCRC to relax the age limit on retirees' pass for MTR staff and their spouse, as well as the free transport age limit for their dependent children.

(c) Management responses:

- The announced arrangement is already very reasonable. Under the new arrangement, no staff from MTR Corporation or KCRC will be worse off compared to the existing free travel benefits that they enjoy.
- In light of the differences between the existing MTR and KCRC arrangements, management has decided to make further relaxation in order to narrow the gaps between the two Companies' arrangements, after considering the feedback and views gathered from staff organisations (including unions). The adjustments are as follows:
 - i) While it is not a market practice to provide parent tickets, but considering KCRC staff currently enjoy such benefit may require more time to adjust to the new arrangement, management has decided that KCRC staff, when they opt to follow existing MTR terms on spouse and dependent children free ticket for the combined network, their parents can continue to enjoy free transport on KCRC network for six months.
 - ii) On retirees' pass, management has decided to further relax age eligibility requirement. For staff

who receive the retirees' ticket, his/her spouse will also be eligible immediately upon the age of 55 or above. Because of such arrangement, staff retiring upon the age of 55 with at least 25 years of service will also be eligible for the retirees' pass immediately.

iii) On free transport for dependent children, MergeCo will adopt KCRC existing practice and relax age eligibility to cover aged 21 to below 25 if in local full-time study.

- Staff bodies (including unions) agreed with the above arrangements.

4.5 Overtime Allowance

(a) Terms announced:

- Based on market and KCRC practices, the MergeCo terms for overtime allowance is 1.35 times hourly rate. For KCRC staff, the rate will remain the same; but as their working hours per week is to be reduced by 7%, their hourly rate is thus increased by 7% accordingly. For MTR staff, their allowance rate will increase from 1 to 1.35 times hourly rate.
- The existing MTR and KCRC staff who are eligible for overtime allowance will still be eligible for overtime allowance in MergeCo.
- KCRC's overtime allowance is paid minute by minute, while that of MTR is paid by every completed 30 minutes for overtime work of 30 minutes or more. By reference to market practice, the MergeCo terms for overtime allowance will be paid by every completed 15 minutes for overtime work of 30 minutes or more.

(b) Union's feedback or views:

- Suggest not to have any minimum qualifying period for overtime allowance.
- Suggest that overtime allowance should be minute by minute according to actual time worked.

(c) Management responses:

- It is not common market practice to pay overtime work minute by minute. Besides, the number of working hours per week has been reduced.

- The management understands that due to the unique nature of a few types of job, staff may be affected by the requirement of 30-minute minimum qualifying period. Therefore, the management now decide to relax the minimum qualifying period to 15minutes.
- Unions agreed with the above arrangement.

4.6 Overnight Shift Allowance

(a) Terms announced:

- As the highest rate in the market for overnight shift allowance is 25% of the hourly rate, the overnight shift allowance in MTR has been adjusted to 35% since 1999 by phases.
- Based on market practice and to bring in line with MTR Corporation, KCRC will align the allowance rate to 35% with phased implementation.

(b) Unions' feedback or views:

- Adopt 45% of hourly rate as per KCRC existing terms.

(c) Management responses:

- MTR has already adjusted its staff's overnight shift allowance to 35% of hourly rate in 1999 by phases.

KCRC existing allowance rate is far above market practice. MergeCo needs to align the T&C of the two Companies into one common set that is closer to market practice. To reduce the impact to KCRC staff, the rate adjustment will take effect in phases and will take more than 12 months after the Appointed Day for full implementation. The overnight shift allowance rate for existing staff will still be better the market practice.

4.7 Dead Early / Dead Late Allowance

a) Terms announced:

- Staff of MTR Corporation and KCRC will both be eligible for \$45 per shift for dead early / dead late allowance. While for MTR staff the allowance remain unchanged, most KCRC staff will be benefited as a result.

- b) Unions' feedback or views:
 - Allowance is given for hours worked before 0615 and after 0045 in MTR Corporation and for hours worked before 0531 and after 0029 in KCRC. The unions demand to adopt the best of both terms (i.e. before 0615 and after 0029).
- c) Management responses:
 - As train operations hours of the MergeCo is not finalized yet, the Company will make final decision on the eligible hours requirements based on actual needs once the operations hours are determined.

4.8 Annual Leave

- a) Terms announced:
 - No change to current annual leave entitlement.
 - Can accumulate up to 14 days + 1 year entitlement, to be cleared on monthly rolling basis.
- b) Staff's and unions' feedback or views:
 - According to MTR current practice, leave can accumulate to up to 2 year entitlement and be cleared on monthly rolling basis.
- c) Management responses:
 - After taking into consideration of suggestions proposed by staff organisations (including unions), the management has decided to relax leave accumulation to up to 21 days plus 1 year entitlement, with total accumulated days not exceeding 2 years' entitlement.
 - Staff bodies (including unions) agreed with the above arrangement.

4.9 The 13th-Month Pay (End of Year Payment)

- a) Terms announced:
 - The existing salary and any benefits related to current job grade for all staff, as well as existing salary scale for non-managerial staff are protected by the Salary Protection Principles. The definition of salary includes the 13th-month pay.

- b) Unions' feedback or views:
 - Adopt MTR's current practice of "the 13th-month pay (End of year payment)".
- c) Management responses:
 - Adopt the unions' suggestion. The management will guarantee that neither the 13th-month pay that MTR staff currently enjoy nor the bonus that KCRC staff currently enjoy will be impacted.
 - This item will be officially referred to the "13th-month pay" in MergeCo.

4.10 Children Education Allowance

- a) Existing arrangement (not included in the Major Terms and Conditions of Employment communicated in December 2006):
 - MTR has abolished children education allowance on July 1, 2002. Qualified staff who joined before this date whose children have already become eligible before the date were still entitled to this benefit. Staff who joined the company after July 1, 2002 are not entitled to children education allowance.
 - KCRC continues giving education allowance to staff's children in school year 2001/2002. From school year 2002/2003 onwards, KCRC stopped taking any new applications for the allowance.
- b) Unions' feedback or views:
 - The current policy should continue.
- c) Management responses:
 - Children education allowance is no longer a market practice, therefore both MTR and KCRC abolished it several years ago. However, the two Companies agree that staff's children who have been enjoying the allowance will continue to receive the allowance.
 - The unions acknowledge this arrangement.

Staff generally have positive feedback to the announced Major T&C, as a total package, and accept that these are reasonable arrangements. Furthermore, management and staff organisations (including unions)

have reached a consensus on most of the improvements of the suggestions. As for other minor terms and conditions of employment, the unions suggest MergeCo to adopt the better of the two Companies' current arrangement (for example, KCRC's maternity leave and Chinese New Year allowance, and MTR's sick leave policy, typhoon allowance or black rainstorm allowance and laundry allowance).

The management has communicated to staff that these items will have relatively low impact to staff, therefore they are not included in the communication in December 2006. In general, the other minor T&C are comparable between the two Companies. Management and staff organisations (including unions) have agreed that management would, after study, discuss with staff bodies (including unions) on the other minor T&C in July this year.

5. Staff Arrangement and Voluntary Separation Scheme (VSS)

Detailed arrangement was communicated to staff on 3rd May, 2007. The two Companies have distributed booklet to all staff explaining the details; in addition, more than 100 briefing sessions were organised to further explain the information covered in the booklet. The key points of the arrangements are as follows:

- (a) Frontline staff do not need to go through selection as job security, as it relates to the merger integration process, has been provided. In addition, the majority of them will remain in their current positions.
- (b) For non-frontline staff where selection is required, the process will begin after the Appointed Day, except for Department Heads and Section Heads of critical positions who will be selected shortly before the Appointed Day.
- (c) To ensure that the selection process is fair and equitable, selection will be conducted by panels composed of members from both MTR Corporation and KCRC, and they will make decisions based on objective criteria.
- (d) To provide an additional option, a VSS will be provided for all eligible non-frontline staff employed on ongoing terms. An alternative arrangement will also be provided to all eligible non-frontline staff employed on contract terms.

The responses from staff to the selection and appointment arrangements are positive, who also consider the terms of the VSS reasonable. So far, there is a major request from the unions asking the VSS be offered to frontline staff as well. The Corporation explained that consideration has to be made as the frontline staff already enjoyed the job security as it relates to the merger integration process without going through the selection, and sufficient manpower is required to maintain normal railway operation of the MergeCo.

The unions also requested to make reference to the VSS package offered by MTR Corporation in 1999, and to take into account the years of service in calculating the amount of compensation.

In addition, the unions also asked for job arrangements for all non-frontline staff. The Corporation indicated that as the railway network expands and as the business grows, it is expected that the vacancies to be created in the first three years of the MergeCo will exceed the positions affected by the synergy. In view that mismatch of skills may happen, the VSS is therefore offered to reduce the need of selection of the non-frontline staff. Only when it is necessary, non-frontline staff will need to go through selection in accordance with the above fair and equitable process.

6. Issuance of Employment Letter

A request was made by the unions to issue employment letters for all staff before the Appointed Day, setting out in detail the Terms and Conditions of Employment, grade, position, etc.. The two Companies pointed out that it is already the plan to make the following arrangements:

- (a) Before the Appointed Day, all MTR Corporation and KCRC staff will receive a written notification indicating that staff will be employed by MergeCo on the Appointed Day on the prevailing terms.
- (b) Frontline staff will be informed of their MergeCo grade and Terms and Conditions for Employment. For non-managerial non-frontline staff, as staff arrangement and appointment will only begin 3 months after the Appointed Day, the information cannot be given to staff before the Appointed Day.
- (c) The written notification issued by the Company is in effect a legally binding employment contract without signed acceptance.

7. Arrangement for Contract Staff

The unions have requested that contract staff should be converted to ongoing terms and have raised concerns on the Terms and Conditions of Employment of contract staff. Management has made the following arrangement accordingly:

- (a) Contract frontline staff employed before 11th April 2006 and are currently on a contract of at least a 2-year duration will be provided with job security as it relates to the merger integration process. These staff will be appointed to MergeCo positions without the need to go through selection.
- (b) Contract frontline staff will be offered to convert to ongoing terms before the Appointed Day with actual implementation after the Appointed Day.
- (c) Contract staff who currently enjoy the Terms and Conditions of Employment stated in the booklet will continue to enjoy the same terms after the Appointed Day.

Conclusion

The two Companies have made good progress and achievements on various HR related matters over the past year through extensive communication with staff and staff bodies (including unions). We will continue to maintain communication with staff through various channels.