

立法會
Legislative Council

LC Paper No. CB(1)2222/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/HS/2/06

**Subcommittee to Study the Draft Subsidiary Legislation
Relating to the Rail Merger**

**Minutes of meeting on
Friday, 15 June 2007, at 10:45 am
in the Chamber of the Legislative Council Building**

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

**Public Officers
attending**

: Agenda item I

Mr Patrick HO
Deputy Secretary for the Environment, Transport and
Works

Miss Ida LEE
Principal Assistant Secretary for the Environment,
Transport and Works

Mr Michael LAM Siu-chung
Senior Assistant Law Draftsman
Department of Justice

Miss Clara LEUNG
Government Counsel
Department of Justice

**Attendance by
invitation**

: Agenda item I

MTR Corporation

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

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

Ms Sarah YUEN
Senior Council Secretary (1)6

Miss LAM Yuen-kwan
Clerical Assistant (1)1

Action

I Meeting with the Administration/the two railway corporations

- (LC Paper No. CB(1)1904/06-07(01) - Response to issues raised at previous meetings provided by MTR Corporation Limited
- LC Paper No. CB(1)1892/06-07(01) - Revised draft Mass Transit Railway (Amendment) Regulation 2007 provided by the Administration
- LC Paper No. CB(1)1878/06-07(01) - Response to questions raised by members on draft bylaws provided by MTR Corporation Limited
- LC Paper No. CB(1)1780/06-07(01) - Information paper on "Merger-related Subsidiary Legislation" provided by the Administration
- LS85/06-07 - Legal Service Division's comments on the draft Mass Transit Railway (Amendment) Bylaw
- LC Paper No. CB(1)1904/06-07(02) - The Administration's reply to Legal Service Division's comments on the draft Mass Transit Railway (Amendment) Bylaw
- LC Paper No. CB(1)1876/06-07(01) - Letter from Assistant Legal Adviser (ALA) to the Administration dated 7 June 2007
- LC Paper No. CB(1)1904/06-07(03) - The Administration's reply to ALA's letter dated 7 June 2007)

Action

Members noted the following papers tabled at the meeting –

- (a) Response to issues raised at previous meetings provided by MTR Corporation Limited (MTRCL);
- (b) MTRCL's reply to Legal Service Division's comments on the draft Mass Transit Railway (Amendment) Bylaw; and
- (c) The Administration's reply to Assistant Legal Adviser 3 (ALA3)'s letter dated 7 June 2007.

(Post-meeting note: The above papers were issued to members vide LC Paper No. CB(1)1925/06-07 dated 18 June 2007.)

- 2. The Subcommittee deliberated (index of proceedings attached at **Annex**).
- 3. In examining the draft key items of the bylaw enforcement guidelines for the post-merger corporation (*Annex to LC Paper No. CB(1)1904/06-07(01)*), members generally considered that there was a need to improve the clarity of the guidelines to facilitate enforcement by railway staff. There was also a need to review the guidelines from time to time taking into account the latest circumstances. Proper training including workshops should also be arranged to equip railway staff with the necessary knowledge to carry out their enforcement duties. Members also requested MTRCL to consult the trade unions before finalizing the guidelines and keep the Legislative Council informed of the development.
- 4. Some members requested MTRCL to consider reviewing the maximum level of penalty for illegal hawking in railway premises, and the scope and definition of hawking activities. Mr CHAN Kam-lam noted MTRCL's explanation of the rationale of the existing provision and acknowledged that there might be a need to impose different penalties for similar offences under different legislations having regard to the actual circumstances.

The way forward

5. Having finished examining the responses of the Administration and the two railway corporations to the follow-up issues raised at all previous meetings, the Chairman invited members to discuss the way forward. In this regard, the Administration informed members that it would give notice on 20 June 2007 to move four motions to seek the Legislative Council's approval of the bylaws made by MTRCL and the Kowloon-Canton Railway Corporation (KCRC) at the Council meeting on 11 July 2007. MTRCL undertook to –

- (a) Incorporate the revised arrangement in setting the respective maximum penalties stipulated in the Mass Transit Railway Bylaws

Action

and Mass Transit Railway (North-west Railway) By-law as mentioned in LC Paper No. CB(1)1878/06-07(01), and introduce a number of technical amendments to address the concerns raised by ALA3 in the finalized bylaws to be introduced into the Council; and

- (b) Reconsider the suggestion raised by Mr Andrew CHENG to change the penalty for hawking from a fine of \$5,000 and six-month imprisonment to \$5,000 and three-month imprisonment.

6. Against the above background, the Subcommittee was generally in support of the draft bylaws. Members also agreed that in case there were any discrepancies found in the finalized version of the bylaws which deviated from the undertakings given by the Administration and the two railway corporations at previous meetings, the Subcommittee would consider holding a meeting on 26 June 2007 at 4:30 pm to follow up on the related matters. As a result, members agreed to cancel the following meetings –

Meeting date	Time
18 June 2007 (Monday)	10:45 am - 12:45 pm
18 June 2007 (Monday)	2:30 pm - 4:30 pm
21 June 2007 (Thursday)	10:45 am - 12:45 pm
22 June 2007 (Friday)	8:30 am - 10:30 am

(Post-meeting note: A circular notifying members of the above meeting arrangements was issued to members by multi-fax vide LC Paper No. CB(1)1920/06-07 dated 15 June 2007.)

II Any other business

7. There being no other business, the meeting ended at 12:10 pm.

**Proceedings of the meeting of
the Subcommittee to Study the Draft Subsidiary Legislation
Relating to the Rail Merger
on Friday, 15 June 2007, at 10:45 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</i>			
000000 – 000244	Chairman	- Opening remarks	
000245 – 000426	Administration	- Briefing by the Administration (LC Paper No. CB(1)1892/06-07(01))	
000427 – 000602	Chairman Mr CHAN Kam-lam	- Discussion on the order of papers to be examined	
000603 – 001226	Chairman Assistant Legal Adviser 3 (ALA3) MTR Corporation Limited (MTRCL)	- Briefing by ALA3 and MTRCL (LC Papers Nos. CB(1)1904/06-07(02) and (03))	
001227 – 001323	Administration	- Briefing by the Administration on issue (1) of LC Paper No. CB(1)1904/06-07(01))	
001324 – 001652	Mr WONG Kwok-hing MTRCL	- Discussion on the expression "treat the passenger courteously and with a firm manner" in the "Draft Key Items of the Guidelines to Staff (the guidelines) in Bylaws Enforcement for MergeCo" (the Draft) (Annex to LC Paper No. CB(1)1904/06-07(01))	MTRCL to take necessary follow-up action
001653 – 002215	Chairman Ms LI Fung-ying MTRCL	- Discussion on whether it would be too demanding to request staff of the post-merger corporation to "familiarize" themselves "with the Bylaws and pay special attention to commonly used sections" - Ms LI Fung-ying's view that while she in general found the Draft agreeable, she considered it important to have the opportunity to examine the actual terms of the guidelines before she could confirm her support for them	MTRCL to take necessary follow-up action MTRCL to take necessary follow-up action
002216 – 002546	Mrs Selina CHOW MTRCL	- Discussion on the need to review the guidelines from time to time in the light of bylaw enforcement experience and on the importance of conducting role plays in staff training	MTRCL to take necessary follow-up action

Time marker	Speaker	Subject(s)	Action required
		- Discussion on the expression "treat the passenger courteously and with a firm manner" in the Draft	
002547 – 002859	Chairman Mr WONG Kwok-hing Administration MTRCL	- Discussion on the need to consult the five unions in the two railway corporations on the guidelines before they were finalized, and to provide the finalized guidelines to the relevant Panel for consideration	MTRCL to take necessary follow-up action
002900 – 003059	Administration MTRCL	- Briefing by the Administration and MTRCL on issue (2) of LC Paper No. CB(1)1904/06-07(01)	
003100 – 005019	Chairman Ms LI Fung-ying MTRCL Mrs Selina CHOW Mr WONG Kwok-hing Mr CHAN Kam-lam	- Discussion on the offence of "hawking" under the Mass Transit Railway (North-west Railway) Bylaw	MTRCL to take necessary follow-up action
005020 – 010211	Chairman Mr Andrew CHENG MTRCL	- Comparison of the penalties for similar offences under the Mass Transit Railway By-laws and Kowloon-Canton Railway Corporation By-laws, and discussion on the appropriateness of setting the penalty for the offence of "hawking" at "\$5,000 fine and 6 months imprisonment", and on whether the 6 months imprisonment penalty should be shortened to 3 months	MTRCL to take necessary follow-up action
010212 – 010353	Administration MTRCL	- Briefing by the Administration and MTRCL on issue (3) of LC Paper No. CB(1)1904/06-07(01)	
<i>Agenda Item II – Any other business</i>			
010354 – 011030	Chairman Mr Andrew CHENG Administration Mr CHAN Kam-lam Mrs Selina CHOW	- Discussion on the way forward and future meeting arrangements	