

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

Response to Questions Raised By the Honourable James To in his letters of 18 June 2007 and 21 June 2007

Issue	Response
Authorized officials and authorization procedures and relevant information under the Mass Transit Railway By-laws (“MTR Bylaw”) and the North-west Railway By-laws (“NWR Bylaw”)	
1) Provide information on the authorization procedures for officials in the enforcement of MTR Bylaw and NWR Bylaw, in particular the formal authorization procedures, whether any training is provided and any other relevant information relating to these procedures.	<ul style="list-style-type: none">● Sufficient training is provided to those officials who are responsible for conducting by-law enforcement duties. The officials are issued an identity card by the corporations and when acting on behalf of the corporations in by-law enforcement, they are required to carry with them the identity card.● Before being authorized to carry out bylaw enforcement duties, the staff concerned will be required to attend training courses and pass an examination to ensure that they are fully aware of the relevant practices and procedures and their own duties. The authorized officials are required to go through an annual examination.
Section 28H of MTR Bylaw and section 24 of NWR Bylaw	
2) The railway corporations to consider amending the bylaw on abusive language to the effect that it would be an offence only if the language is considered threatening, insulting or abusive to a third party in the railway premise.	<ul style="list-style-type: none">● MTR Corporation Limited (MTRCL) advised that the purpose of this provision is to ensure that, in the confined area of railway premises, passengers are protected from being affected by threatening or abusive language of others.● The railway corporations have explained in previous meetings of the Subcommittee that the enforcement of this Bylaw is normally triggered by reports or complaints from passengers or staff who are being abused by such language or behaviour. The normal procedure is first to advise the person which is subject of the complaint and seek his cooperation. Further action will only be taken if that person refuses to cooperate.● MTRCL pointed out that the way the provision on the offence of abusive language is drafted is not unique, as it is similar to s.19 of the Airport Authority Bylaw (Cap. 483A); s. 11 of the Peak Tramway By-laws (Cap. 265B); and s.4 of the “Star” Ferry Company, Limited By-laws (Cap.104E).● The corporation indicated that it will take into account of the views and comments from Members

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	on this provision in its comprehensive review on the bylaws.

Section 28F of MTR Bylaw and section 24A of NWR Bylaw

<p>3) Provide the rationale for the inclusion of a bylaw to prohibit a person in a state of intoxication to enter or remain upon the railway premises.</p>	<ul style="list-style-type: none"> • MTRCL advised that the purpose of this bylaw is to allow the railway operator to ensure railway safety and to deal with any persons in a state of intoxication who may endanger themselves and/or pose hazards and/or nuisance to others in the railway premises. • This provision enables the railway operator to refuse any persons in a state of intoxication who may affect other passengers to enter or remain in the railway premises, with a view to protecting other passengers in the railway premises. • In practice, the corporations would normally act on reports or complaints from passengers. In enforcing the bylaw, the corporations will firstly advise the person who is subject of the complaint to leave. Further action will only be taken if that person refuses to follow the advice.
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Section 41 of MTR Bylaw and section 37 of NWR Bylaw

<p>4) Provide the rationale for reducing the period of retention of lost property under the MTR Bylaws and KCRC Bylaws to one month.</p> <p>Is there any evidence that all claimed properties were claimed within one month?</p> <p>Has MTRCL considered the possible impact of this amendment to passengers?</p>	<ul style="list-style-type: none"> • The relevant bylaws made by Kowloon-Canton Railway Corporation (KCRC) specify that all articles or objects found which have not been claimed by the true owners within one month will be deemed to have abandoned. • MTRCL and KCRC have reviewed their past records and advised that over 95% of claimed properties were claimed within a very short period, between one and two weeks. • In KCRC, there was no record of found properties being claimed after three weeks in the last two years. In MTRCL, most of the claimed properties (some 98%) were claimed within 28 days. • MTRCL advised that the suggested amendment to align the retention period to one month has taken into consideration past experience and the minimal possible impact to the traveling public.
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Section 31 of MTR Bylaw and section 29 of NWR Bylaw

<p>5) The railway corporations to consider</p>	<ul style="list-style-type: none"> • MTRCL pointed out that such provision is not unique in Hong Kong's laws. There are similar
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making reference to s.160 of the Crimes Ordinance (Cap. 200) whereby an offence of loitering is linked to an intent to commit crime and to define the offence of loitering in MTR Bylaw in more specific terms.	<p>provisions in different Bylaws that also do not include a reference to an intent to commit an offence:</p> <ul style="list-style-type: none"> - s. 20 of the Eastern Harbour Crossing Road Tunnel Bylaws (Cap. 215E); - s. 22 of the Discovery Bay Tunnel Link Bylaw (Cap. 520B); - s. 23 of the Western Harbour Crossing Bylaw (Cap. 436D); - s. 20 of the Tate's Cairn Tunnel By-laws (Cap. 393B); - s. 23 of the Tai Lam Tunnel and Yuen Long Approach Road Bylaw s20 (Cap. 474C); and - s. 20 of the Airport Authority Bylaw (Cap. 483A) <ul style="list-style-type: none"> • MTRCL advised that this Bylaw could also help to ensure that passengers would not linger in railway premises especially during festivals or emergency situation.

Section 21(1) of MTR Bylaw

6) The railway corporations to provide more information on the prosecutions under this Bylaw and contents of the relevant notices.	<ul style="list-style-type: none"> • Information on the prosecutions by both Corporations under this Bylaw is outlined in LC Paper No. CB(1) 1904/06-07(01) and discussed at the Subcommittee meeting on 15 June 2007. • MTRCL has issued four types of notices under s.21(1) of the MTR By-law which covered the following: <ul style="list-style-type: none"> (i) Crowd control; (ii) Special arrangements for festive events; (iii) Restriction of improper use of emergency exits and fire service equipment; and (iv) Prohibition of canvassing for customers. <p>MTRCL explained vide LC Paper No. CB(1)1904/06-07(01) that they have no prosecution record for contravention of the first three types of notices. The two prosecution cases in 2005 were related to canvassing by the representatives of two estate agents who had followed passengers persistently requesting them to view a property development despite the passengers indicating that they were not interested, and eventually led to complaints by the passengers. The content of the relevant notices is at Annex A.</p> • KCRC has issued two types of notices under the relevant bylaw, one on the prohibition of sitting on train floor and the other on prohibition of improper use of emergency exit. KCRC explained vide LC Paper No. CB(1) 1904/06-07(01) that in the past two years, there were altogether four
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	<p>prosecution cases on contravention of the latter notice, and that all the other prosecution cases in these two years concerned contravention of the former notice. The content of the two notices is at Annex B.</p>

Notices – MTRCL

(i) Crowd control



(ii) Special arrangement for festive events



(iii) Restriction of improper use of emergency exits and fire service equipment



(iv) Prohibition of canvassing
for customer

通告 Notice

在地鐵站內遊蕩、招攬生意或 從事商業活動

未得地鐵公司事先書面授權而在地鐵站內任何範圍遊蕩
招攬生意或從事商業活動，均屬違反《地下鐵路附例》
(獲授權人士須佩戴地鐵公司證明文件)

違反上述附例的罰則：

遊蕩 - 罰款\$2000 及監禁3個月

販賣 - 罰款\$5000 及監禁6個月

站務人員會定期巡視各車站範圍。乘客如察覺到有上述
違例情況，請通知客務中心職員，或致電 _____ 與
車站控制室聯絡

Loitering, canvassing for customers or carrying out business in MTR stations

It is a breach of Mass Transit By-laws to loiter, canvass for customers
or conduct business in any area of MTR stations without the prior
written authorisation of the MTR
(authorised persons will always display MTR identification)

The penalty for breaching these by-laws is

Loitering - \$2000 fine & 3 months imprisonment

Hawking - \$5000 fine & 6 months imprisonment

Station staff regularly patrol all the station areas. However if you see
anyone breaching the by-laws in this way please help us
by informing the Customer Service Centre staff or
calling the Station Control Room on



Notices – KCRC

- (i) Prohibition of sitting on the train floor



- (ii) Prohibition of improper use of emergency exit

