

For information

Legislative Council Panel on Economic Services

Ngong Ping Skyrail

Following the last Panel meeting held on 18 September, a Member sought further information on the contractual arrangement between Mass Transit Railway Corporation Limited (MTRCL) and Skyrail-ITM (Hong Kong) Limited (Skyrail). This paper responds to the Member's request.

2. We last briefed Members on the findings of the investigation into the falling of a cabin from the cable car system, and the improvements needed to enhance the maintenance and operations of the cable car system to ensure reliable and efficient service that lives up to public expectations. Due to the sub judice rule, we have not been able to disclose the Expert Panel's report to the public in full in order not to prejudice the prosecution and the legal interests of the defendant. Nonetheless, we are committed to arrange for full public disclosure of the entire Expert Panel report as soon as the Department of Justice has confirmed that we are in a position to do so.

3. Meanwhile, the Administration and MTRCL will keep Members, concerned parties and the general public informed of progress made in implementing the recommendations put forward by the Expert Panel and the recovery plan for re-launching the cable car system. This helps enhance the transparency of the run-up to the resumption of commercial operation and restore public confidence in the cable car system.

4. We have also informed Members of MTRCL's decision to change the cable car management, as a first step in implementing the Expert Panel's recommendations for more effective management, operational and maintenance organisation. In the paper we provided to the Panel (LC Paper No. CB(1)2376/06-07(01)), we advised Members that a subsidiary company would be formed by MTRCL to take up the management and operation of the system. Arrangement between MTRCL and Skyrail is a contractual matter between the two commercial undertakings. No official from Commerce and Economic Development Bureau was involved in any part of the discussion, nor was informed of the terms and conditions of the contract between MTRCL and

Skyrail. In response to the Member's request for clarification, MTRCL has prepared a note at the Annex.

5. Members are invited to note the content of this paper.

Commerce and Economic Development Bureau
October 2007

Note on MTRCL's arrangement with Skyrail

Purpose

This note aims to respond to the questions raised by the Honourable Fred Li in his letter to the Chairman of the Panel dated 21 September 2007 on the MTRCL acquiring Skyrail-ITM (Hong Kong).

The Event

2. The MTRCL believes it may be helpful if to first explain to members what had happened before 18 September 2007.

3. In accepting the Government-appointed Expert Panel's recommendations for improvements, the MTRCL had come to the conclusion that it should take over the management and operation of the Ngong Ping cable car system in order to ensure a high level of confidence in its performance. The question then was what would be the best means to achieve this goal.

4. The MTRCL had carefully considered all factors including the importance of reopening the cableway as soon as possible, the contractual terms with Skyrail, the stability of the trained staff and the implication of protracted negotiation or mitigation. It was concluded that the acquisition of Skyrail-ITM (Hong Kong) Ltd was the simplest and most effective way to achieve the objective at hand. It would enable the MTRCL to quickly proceed with the implementation of the required improvements and re-testing the system to facilitate an early reopening of the Ngong Ping 360 cable car system. This arrangement would be in the interest of the MTRCL as well as other stakeholders such as the tourism industry as a whole, Ngong Ping Village tenants and the employees.

5. In the Panel meeting of 18 September 2007, the MTRCL spoke about the "transfer of management" which is its goal. The acquisition of Skyrail-ITM (Hong Kong) Ltd is the means to achieve the goal. At no time during the press conference or the presentation to the Panel did the MTR Corporation's representatives say that the company was terminating its contract with Skyrail or that it was negotiating with

Skyrail on the matter of compensation. However, the MTRCL representatives did stress that a confidentiality clause in the agreement with Skyrail prevented them from disclosing details of the contract.

6. Members would appreciate it is common market practice for parties involved in the signing of commercial contracts not to disclose the content of such contracts and the MTRCL supports this spirit.

Conclusion

7. The MTRCL would like to clarify that it had no intention to mislead Panel members or the public in its representation on how it planned to take over operation and management of Ngong Ping 360.

Mass Transit Railway Corporation Limited
October 2007