

立法會
Legislative Council

LC Paper No. CB(1)1159/10-11
(These minutes have been seen
by the Administration)

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Panel on Transport

**Minutes of meeting held on
Friday, 26 November 2010, at 8:30 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Andrew CHENG Kar-foo (Chairman)
Hon CHEUNG Hok-ming, GBS, JP (Deputy Chairman)
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LAU Kong-wah, JP
Hon Miriam LAU Kin-ye, GBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon WONG Kwok-hing, MH
Hon Jeffrey LAM Kin-fung, SBS, JP
Hon Ronny TONG Ka-wah, SC
Hon KAM Nai-wai, MH
Hon CHAN Hak-kan
Hon WONG Sing-chi
Hon IP Wai-ming, MH
Hon Mrs Regina IP LAU Suk-ye, GBS, JP
Hon LEUNG Kwok-hung
Hon Tanya CHAN
- Member attending** : Hon Paul CHAN Mo-po, MH, JP
- Members absent** : Hon Abraham SHEK Lai-him, SBS, JP
Hon Albert CHAN Wai-yip

Public officers attending : Agenda item IV

Ms Eva CHENG, JP
Secretary for Transport and Housing

Mr Alan K M CHU
Deputy Secretary for Transport and Housing
(Transport)3

Miss Erica NG
Principal Assistant Secretary for Transport and
Housing (Transport)2

Ms Irene HO
Assistant Secretary for Transport & Housing
(Transport)2C

Dr Gloria TAM, JP
Deputy Director of Health

Dr LIU Shao-haei
Chief Manager
(Infection, Emergency & Contingency)
Hospital Authority

Dr F C KWOK
Assistant Government Chemist
(Forensic Science Division) (Atg)
Government Laboratory

Dr W C CHENG
Senior Chemist
(Forensic Toxicology A Section)
Government Laboratory

Mr Stephen Harvey VERRALLS
Chief Superintendent (Traffic)
Hong Kong Police Force

Ms Angela NG
Senior Superintendent (Administration)
(Traffic Branch Headquarters)
Hong Kong Police Force

Mr Shylock WONG
Superintendent (Law Revision & Projects)
(Traffic Branch Headquarters)
Hong Kong Police Force

Mr Harry CHAN
Chief Engineer / Road Safety & Standards
Transport Department

Mr Stephen G. COLLIER
UK National Instructor on Drug Driving Training

Agenda item V

Ms Rebecca PUN
Deputy Secretary for Transport and Housing
(Transport)²

Miss Janet WONG
Principal Assistant Secretary for Transport and
Housing

Mr Josiah TAU
Chief Treasury Accountant (Transport)
Transport and Housing Bureau

Miss Alice AU-YEUNG
Assistant Commissioner / Bus and Railway (Ag.)
Transport Department

Mr CHEUNG Jin Pang
Principal Transport Officer/Bus & Railway 1
Transport Department

Attendance by invitation : Agenda item V

Franchised Bus Companies

Mr Edmond HO
Managing Director
The Kowloon Motor Bus Company (1933)
Limited / Long Win Bus Company Limited

Mr Evan AU YANG
Deputy Managing Director
The Kowloon Motor Bus Company (1933)
Limited / Long Win Bus Company Limited

Ms Winnie HO
Corporate Affairs Director
The Kowloon Motor Bus Company (1933)
Limited

Clerk in attendance : Ms Joanne MAK
Chief Council Secretary (1)2

Staff in attendance : Mr Kelvin LEE
Assistant Legal Adviser 1

Ms Sarah YUEN
Senior Council Secretary (1)6

Miss Mandy LAM
Legislative Assistant (1)2

Action

The Panel noted that Mr LEE Wing-tat had withdrawn from the Panel with effect from 22 November 2010.

I Confirmation of minutes
(LC Paper No. CB(1)206/10-11 - Minutes of meeting on
14 October 2010)

2. The minutes of the meeting held on 14 October 2010 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)402/10-11(01) - Memo referring to the Panel the views and concerns raised by North District Council members at their meeting-cum-luncheon with LegCo Members on 3 June 2010 about bus route 373, and the bus service between North District and West Kowloon

LC Paper No. CB(1)485/10-11(01) - Submission from a member of the public objecting to stopping the operation of the bus terminus at Central Ferry Pier

LC Paper No. CB(1)510/10-11(01) - Submission from a member of the public on outlying island ferry services

LC Paper No. CB(1)525/10-11(01) - Administration's information paper on "Tender Exercise for Occupation and Use of Tuen Mun Ferry Terminal for Operation of Cross Boundary Passenger Ferry Service")

3. Members noted the above papers issued since the last meeting.

III Items for discussion at the next meeting scheduled for 17 December 2010

(LC Paper No. CB(1)482/10-11(01) - List of outstanding items for discussion

LC Paper No. CB(1)482/10-11(02) - List of follow-up actions

LC Paper No. CB(1)482/10-11(03) - List of items on which the Administration intends to brief the Panel through the submission of information papers)

4. Members agreed to discuss the following items at the next regular meeting on 17 December 2010 –

(a) Taxi Fare Adjustment Application; and

(b) Hong Kong Tramways Limited Fare Adjustment Application.

5. Members noted the letter dated 4 November 2010 from Mr KAM Nai-wai, which was tabled at the meeting. Members agreed to add the item on "elderly-friendly bus design" proposed by Mr KAM to the Panel's list of outstanding items for discussion.

IV Proposals to combat drug driving

(LC Paper No. CB(1)482/10-11(04) - Administration's paper on legislative proposals to combat drug driving

LC Paper No. CB(1)482/10-11(05) - Extract from the minutes of the meeting on 23 July 2010

LC Paper No. CB(1)733/10-11 Submission from First Test Ltd.

LC Paper No. CB(1)732/10-11(01) Powerpoint presentation materials provided by the Administration)

6. With the aid of power-point, the Secretary for Transport and Housing (STH), the Principal Assistant Secretary for Transport and Housing (Transport) 2 (PAS(T)2) and the Chief Superintendent of Police (Traffic), Hong Kong Police Force (CSP T) briefed members on the feedback of the public consultation on the initial proposals to combat drug driving, and the Administration's proposed legislative plan to amend the Road Traffic Ordinance (RTO) (Cap. 374). Members in general expressed support for the early enactment of the relevant legislative proposals in recognition of the serious road safety hazards posed by drug driving, which in their view was becoming more serious.

Preliminary tests

General comments

7. Highlighting the success of the random breath test (RBT) in deterring drink driving, Mr CHAN Hak-kan asked whether preliminary drug tests would also be conducted randomly. STH said that the Administration would

consider conducting the tests randomly if they could be conducted as efficiently and reliably as RBTs. Meanwhile, the Administration would closely monitor the relevant developments and act accordingly.

8. Ms Miriam LAU thanked the Administration for introducing Committee Stage amendments to the Road Traffic (Amendment) Bill 2010 to make driving with presence of any amount of the specified illicit drugs proposed for the purpose of the 'zero-tolerance offence' a circumstance of aggravation in all dangerous driving offences. At her request to introduce random drug tests as soon as practicable, STH advised that consideration would be given to conducting drug tests randomly when a reliable device could be identified to detect all the six specified illicit drugs. The Administration had already been actively searching for such a device, and conducting trials on prototypes to ensure reliability.

9. Stressing the need to ensure proper conduct of drug driving tests, Mr KAM Nai-wai asked whether the driver would commit an offence if he refused to answer the questions asked by the police officer during the drug influence recognition observation (DIRO) procedure. He also expressed concern about the justifications and appropriateness of the following arrangements –

- (a) That the driver might be required to go directly to a rapid oral fluid test (ROFT) in case the police officer had suspicion that he had consumed a zero tolerance drug although the driver had shown no sign of impairment and therefore a DIRO would be superfluous; and
- (b) That even though ROFT indicated that the driver had not taken any of the specified illicit drugs, the police officer could still arrest the driver and conduct the impairment test on him in a police station if the police officer reasonably suspected that the driver was under the influence of drugs other than those tested for by ROFT.

10. CSP T responded that it would be an offence not to co-operate with the police officer and refused to perform DIRO. He also clarified that the arrangement in paragraph 9(a) above would only apply to exceptional occasions such as that when the police officer saw the driver consume the drug concerned. As for the arrangement in paragraph 9(b) above, he explained that ROFT was in fact conducted for rapid screening. If ROFT indicated that the oral fluid of the driver contained any of the specified illicit drugs, the police officer would, without any need to conduct the impairment

test, arrest the driver straight away and require him to submit blood and/or urine specimens. Only when ROFT indicated that the driver had not taken any of the specified illicit drugs but there was reasonable suspicion would the police officer go through the step of conducting the impairment test on him.

11. The Deputy Chairman asked whether the number of police officers to be trained to conduct the drug driving tests would, as reported in the press, be 1 500 or that this was only the initial figure. CSP T responded that the plan was that all front-line traffic officers would be trained to conduct DIRO but only 30 to 50 officers of higher ranks, such as station sergeants, would be trained to conduct the impairment test.

Rapid oral fluid tests

12. Mr WONG Kwok-hing considered it necessary to ensure that the finalized measures against drug driving would not cause nuisance to the public though effective. Noting that the Administration had yet to identify a reliable device for conducting ROFT on the six specified illicit drugs, he expressed concern about the uncertainties so arising, and doubted whether progress in this regard could tie in with the legislative plan of introducing the relevant legislative proposals into the Legislative Council in the second half of the 2010-2011 legislative session, i.e. the second quarter of 2011.

13. STH responded that ROFT was only a preliminary screening and evidence gathering tool to help the Police establish prima facie cases for drug driving offences, so that the suspected driver could be required to give specimens of blood or other body fluid specimens for laboratory analysis. A charge might only be laid if the presence of drugs was confirmed by the detailed laboratory analysis that followed. She further explained that there was difficulty in finding a reliable ROFT device in the market for enforcement of the relevant legislative proposals because, while ketamine was the most common drug of abuse in drug driving cases in Hong Kong, this was not the case overseas. The Assistant Government Chemist (Forensic Science Division) (Acting), Government Laboratory (Atg AGC) echoed her points, and added that the Administration was already experimenting with certain devices. Some companies had also agreed to provide samples for the purpose. If found feasible, the Administration would inform the companies concerned to ensure early supply of the identified device.

14. The Chairman expressed concern about how the relevant legislative proposals could be enforced if at the end no reliable device could be identified for the conduct of ROFT. STH and Atg AGC responded that it

was highly likely that the device would be made available because the suppliers had already developed prototypes of the device and conducted some preliminary tests on them. The Police and Government Laboratory were in fact in the process of obtaining test data and other relevant information from the suppliers to enable them to ascertain the accuracy of the device. The Deputy Secretary for Transport and Housing (Transport)3 (DS(T)3) added that if subsequent to a DIRO, a driver was suspected to have taken drugs, the Police might require the driver to undergo the impairment test if ROFT was not available.

The impairment test

15. Noting that only police officers who had been professionally trained to an internationally comparable standard and accredited might conduct the impairment test, Mr WONG Sing-chi sought details on "internationally comparable standard", and expressed concern about the impact of the conduct of the impairment test on human rights. The UK National Instructor on Drug Driving Training (UKNIDDT) responded that the training concerned had been developed through years of research worldwide, so that officers so trained would identify for action only those drivers who had been grossly impaired by drug abuse, and not drivers who had taken drugs for medical purposes although they might show similar signs and symptoms.

16. Mr WONG Sing-chi enquired how the Administration would handle drivers whose driving ability seemed to be under the influence of drugs but later cleared of having taken drugs by passing the impairment test. CSP T responded that in the UK, in all cases which were assessed to be impaired by drug in roadside impairment tests, drug was confirmed to have been taken by the persons concerned in 94% of the cases. If drug was found not to be at play, many factors could be involved and medical problem might be the cause.

17. The Deputy Chairman asked whether all police stations would have the necessary equipment for conducting the impairment test and if not, how the Administration planned to conduct the test. CSP T responded that initially one station per police region would be so equipped. The arrangement was considered adequate considering the present number of cases. If there was a need, the number of police stations so equipped would be increased.

18. Mr LEUNG Kwok-hung considered it undesirable to further empower the Police to conduct the impairment test considering the possibility of abuse and their heavy workload. He opined that healthcare professionals were

better qualified to perform the task. UKNIDDT responded that all around the world the impairment test was carried out by police officers. Moreover, this was only a screening process. Nothing in it required the expertise and precision of healthcare professionals.

Drug influence recognition observation

19. The Deputy Chairman questioned whether DIRO would really take no longer than five minutes as claimed. At his request to explain how the time had been worked out, UKNIDDT explained that this was not the exact time frame. The time required might be less or more, depending on the situation and how the police officer interacted with the driver concerned.

Drugs subject to zero-tolerance

20. Mr CHAN Hak-kan considered it inadequate to subject to zero-tolerance only six drugs, considering that the number of common drugs of abuse might increase. In reply to him on how new drug(s) of abuse could be covered in future, STH explained that while ROFT might be capable of detecting only six specified illicit drugs, the impairment test could identify the presence of impairment through any drug category. CSP T echoed her points, and added that the relevant legislative proposals had already provided scope for increasing or decreasing the number of specified illicit drugs as the situation required.

21. Miss Tanya CHAN asked how the above adjustments could be made and whether they would be in the form of subsidiary legislation. DS(T)3 responded that the six illicit drugs would be specified in a Schedule, amendments to which would be published by notice in the Gazette.

Concerns that drivers who took drugs for medical purposes might be inadvertently caught drug driving

22. While agreeing that stringent measures against drug driving were justified, Ms LI Fung-ying stressed the need to differentiate between drivers who really abused drugs and those who took drugs for medical purposes. She was concerned that although the relevant side effects would be explained to the patients and/or specified in drug labels, reaction to drugs varied among individuals. As such, if a professional driver's reaction was more serious than expected but no sick leave had been granted to him because this was unnecessary under normal circumstances, the driver might have to drive under the influence of drugs. She therefore saw a need to issue clear guidelines to employers and healthcare professionals to remind them of the

need to note the above variation and grant sick leave as necessary. Ms Miriam LAU shared her views.

23. STH responded that existing drug labelling requirements and codes of practice for doctors and dentists had already provided that the side effects of drugs should be clearly explained to patients. A statutory defence would also be provided (the proposed defence) for a person who, having consulted medical advice, genuinely did not know and would not reasonably have known the medicinal drugs he took would affect or impair driving. The Deputy Director of Health (DD of H) echoed her points, and added that according to overseas experience, the side effects of drugs should not cause problem if taken according to medical advice. Where there were abnormal circumstances, the healthcare professionals and patients concerned should make their own judgement and act accordingly.

24. Ms Miriam LAU asked whether drug analysis of blood or other body fluid specimens could differentiate between illicit drugs and medicines used for medical purposes. DD of H responded that a charge might only be laid if the driver concerned failed the impairment test, and the presence of drugs was also confirmed by the detailed laboratory analysis that followed. Atg AGC confirmed DD of H's points, and added that drug analysis was conducted for the purpose of ascertaining the presence and amount of drugs for determination of prosecution. Analysis results formed only part of the evidence and the Police might have other evidence.

25. While indicating support for the zero tolerance approach, Mr IP Wai-ming also highlighted the need to address professional drivers' concern that they might be inadvertently caught drug driving merely because they had taken drugs for medical purposes. In his view, owing to the great number of medicines, there was difficulty in identifying which ones would cause drowsiness, especially as many over-the-counter medicines used such ambiguous expressions as "might cause drowsiness". To address professional drivers' concerns, he urged the Administration to, before the relevant legislative proposals came into force, explain the proposed defence to them, in particular whether it would apply if the driver took medicines with the above ambiguous warning. He also opined that the Administration should ensure all drugs would be labelled in a clear and precise manner without reference to "likely" effects, and that proper font size would be used to present warnings.

26. STH agreed to communicate more with driver organizations to address their concerns. She further explained that only drivers whose driving ability had been grossly impaired by drugs would be charged but not

those only showing mild symptoms or signs. Moreover, the proposed defence would be made available to protect drivers from being inadvertently caught drug driving. DD of H added that most drugs that could cause drowsiness were prescription drugs. Medicinal drugs containing antihistamine were the only over-the-counter drugs that might cause inability to concentrate and drowsiness, and there were already clear provisions requiring labelling of these drugs in the specified format. Under the circumstances, users of these drugs could be properly warned of these drugs' side effects on driving ability.

27. Mr LEUNG Kwok-hung pointed out that it might be difficult for professional drivers to refrain from driving after taking medicines because they made their living by driving. He asked whether their employers had the obligation to allow them to take sick leave where necessary, and that there would be objective tests to facilitate decisions in this regard. In his view, if the above were not available, professional drivers would very easily be inadvertently caught drug driving, especially as doctors in Hong Kong liked to prescribe medicines that had a strong effect, and transport operators were reluctant to grant their drivers sick leave. STH and DD of H reiterated that if taken according to medical advice, most medicinal drugs would unlikely cause drivers to perform poorly in the preliminary test. Under abnormal circumstances, the driver should seek healthcare professionals' advice lest other road users would be affected if he continued to drive.

Other views and concerns

28. Referring to paragraph xvii of Annex D of the Administration's paper for this item (LC Paper No. CB(1)482/10-11(04)), Ms LI Fung-ying asked why a person who had conviction record of any of the drug driving offences would only be denied from applying for a full driving licence to drive commercial vehicles and not other vehicles as well. In her view, to ensure road safety, the above restriction should apply to all vehicles. DS(T)3 responded that there were similar restrictions in the Road Traffic (Driving Licences) Regulations (Cap. 374B). The proposed amendment was consequential in nature to ensure that persons convicted of the proposed new drug driving offences would also be subject to the restrictions.

29. Noting that it might take over a year for the relevant legislative proposals to take effect, Mr WONG Kwok-hing and Miss Tanya CHAN enquired about measures that would be taken in the interim to combat the drug driving problem to ensure road safety. STH responded that the existing section 39 of RTO already provided that it would be an offence for a person to drive a motor vehicle under the influence of drugs to such an extent

as to be incapable of having proper control of the motor vehicle. The relevant legislative proposals only sought to enhance the objectivity of this provision and facilitate evidence collection. Moreover, the Police had already stepped up enforcement efforts through setting up road blocks with satisfactory results in bringing about changes in driving behaviour. CSP T confirmed her points, and added that among the 73 arrest cases involving drug driving in 2010, the Police had already laid charges for 45 cases and convicted 37 cases while eight cases were still under trial. Ms Miriam LAU, however, pointed out that section 39 of RTO had seldom been acted upon.

30. Summing up, the Chairman urged the Administration to introduce the relevant legislative proposals early.

V. Fare increase applications from The Kowloon Motor Bus Company (1933) Limited and the Long Win Bus Company Limited

(LC Paper No. CB(1)482/10-11(06) - Administration's paper on fare increase applications from The Kowloon Motor Bus Company (1933) Limited and the Long Win Bus Company Limited

LC Paper No. CB(1)481/10-11 - Paper on fare adjustment arrangement for franchised buses (Updated background brief)

LC Paper No. CB(1)732/10-11(02) Powerpoint presentation materials provided by The Kowloon Motor Bus Company (1933) Limited

LC Paper No. CB(1)732/10-11(03) Powerpoint presentation materials provided by Long Win Bus Company Limited)

31. The Deputy Secretary for Transport and Housing (Transport)² briefed members on the bus fare adjustment arrangement. With the aid of power-point, the Managing Director (MD) of The Kowloon Motor Bus Company (1933) Limited (KMB)/Long Win Bus Company Limited (LW) briefed members on the respective fare increase applications submitted by KMB and LW (the fare increase applications). Members in general considered the proposed rates of increase too high to accept.

Implications of the fare increase applications and reasons for opposing to them

32. Mr WONG Kwok-hing considered it regretful that STH did not attend the discussion of this item, and expressed strong opposition to the fare increase applications on grounds that the proposed rates of increase, at 8.6% and 7.4% respectively, were higher than the recently announced Composite Consumer Price Index (CCPI) inflation of 2.3% by more than two times, so that the fare increase applications, if approved, would definitely lead to a spate of increases in the charges of public utilities and fares of other public transport services. Moreover, KMB/LW had never reduced fares during the period when a cumulative deflation rate of over 11.4% was recorded. Furthermore, it was unfair not to take into account KMB's profits from converting its depots into property developments while highlighting the impact of the commissioning of new railways on its financial viability. He indicated intention to move a motion to oppose to the fare increase applications. Mr KAM Nai-wai shared his view on the impact of the fare increase applications on other charges, and opined that the fare increase applications were unacceptable and regrettable.

33. MD responded that as different from CCPI of which the fuel element constituted only 0.7%, fuel featured a significant 18% in KMB's current cost structure. As for property development on former bus depot sites, the land in question was in fact procured by the shareholders of KMB from the open market at prevailing market price a long time ago. According to the relevant franchise clauses, gain/loss arising from property development would not be taken into account in KMB's franchise account. There was therefore no question of using profits from property development to cross-subsidize bus operations. Similarly, profits from bus operations would not be used to cross-subsidize property development.

34. Noting the above response, Mr IP Wai-ming asked whether the Administration had demanded payment of premium for lease modification to change the land use of the sites concerned from bus depot to residential development. If so, he asked whether the premium charged could be used to subsidize bus operation to keep bus fares low. MD responded that premium payment would be made as necessary in accordance with the relevant provisions.

35. Pointing out that bus service was preferred over other public transport services for its cheaper fares and convenient point-to-point service, Mr CHAN Hak-kan warned KMB/LW against repeatedly increasing their fares, lest passengers might switch to other public transport services, and

KMB/LW might at the end incur even greater loss. The Administration and the two bus operators noted his views.

36. Mr CHAN Hak-kan indicated opposition to the fare increase applications because rail service was not available in some remote new towns of the New Territories, and in Tokwawan and Kai Tak in Kowloon. Residents there would have no choice but to pay more money to use KMB/LW's services. The Administration and the two bus operators noted his views.

37. The Deputy Chairman drew the Administration's attention to the public's opposition to the fare increase applications which in their view were unacceptable, and expressed concern that the applications would affect the effect of the planned expansion of the Transport Support Scheme for the workforce to all 18 districts across the territory. DS(T)2 responded that public acceptability and affordability was one of the major factors to be seriously taken into consideration in the bus fare adjustment arrangement, and reference would be made to the magnitude of change in median monthly household income and changes in CCPI in reviewing this factor.

Measures taken or proposed to mitigate fuel cost increase and avoid fare increase

38. Mr CHAN Hak-kan highlighted the success of Cathay Pacific Airways Limited in significantly increasing its profits through fuel hedging notwithstanding fuel price increase, and enquired about efforts made by KMB to mitigate fuel cost increase. MD responded that while airline companies could impose fuel surcharge, no fuel surcharge mechanism was currently available to franchised bus operators. As for fuel hedging, after examining in detail its pros and cons, KMB had refrained from entering into fuel hedging contracts in the past two years in view of the significant risks inherent to hedging, which had in fact caused some air carriers great financial losses to the extent of a few billion dollars. Instead, fuel-saving and management efforts were made by KMB, although such savings amounted to merely 1- 2% of fuel costs as buses still needed to run on fuel. Such small amount of savings could not offset the significant increase of 27% in fuel oil prices so far this year.

39. Mr KAM Nai-wai referred to page 8 of the power-point presentation materials, and questioned why KMB should suffer loss whether fuel price was US\$170 per barrel in June 2008, or when the price significantly went down in the latter half of 2008. He suspected that poor operation, or excessive pay for the senior management and director's fees instead of fuel

cost increase were to blame. MD responded that KMB/LW had spared no effort in providing cost-effective and quality bus services. However, attempts to rationalize under-utilized bus routes had often met with local objections, and service adjustments could not be made in line with the decrease in patronage caused by the expanding rail network. To further improve the environmental performance of its bus fleet, KMB was also investing in the purchase of buses of higher emission standards. From 2008 to September 2010, KMB had purchased 538 new buses at HK\$1.27 billion. Of these new buses, 412 were of Euro V emission standards. KMB was also retrofitting diesel particulate filters on its Euro II and Euro III buses for completion by the end of 2010. Noting the response, Ms Miriam LAU considered it necessary for the Administration to tackle the difficulty in rationalizing bus routes according to decrease in patronage.

40. Mr LEUNG Kwok-hung opined that the purchase of new buses was in fact an excuse for increasing fares. In his view, public transport services should be operated by the Government because it would be in a stronger position to conduct fuel hedging to offset fuel cost increase. MD responded that KMB had been operating bus services since 1933 and would endeavour to continue to provide satisfactory service for Hong Kong. It might be worth noting that in some other jurisdictions, public bus services were provided with fuel subsidy by their respective governments so as to maintain fares at a stable level for the traveling public and alleviate bus operators' pressure for fare increase.

41. Ms Miriam LAU asked how the problem of fuel price increase faced by public transport operators could be addressed. In response, DS(T)2 referred members to paragraph 3 of LC Paper No. CB(1)482/10-11(06) for details of the bus fare adjustment mechanism, and explained that fuel price had not been included as the reference indicator in the adjustment because passengers would otherwise have to bear frequent, unforeseeable and drastic fare adjustments due to short-term changes in fuel costs, and bus operators might directly pass their fuel costs to passengers. Notwithstanding, since fuel costs would affect the operating costs of bus companies, fuel price increases would indirectly be taken into account. She said that, as bus franchises were granted for a period of ten years, bus companies should adopt a long-term approach in handling this business risk factor.

42. Mr WONG Sing-chi opined that if KMB had to increase fares because of fuel price increase, it should have similarly reduced its fares long before when fuel price significantly went down. Moreover, its proposed rate of increase was higher than the some 4% worked out on the basis of a 27% increase in fuel price. In his view, the extra profits made by KMB when

fuel price was low should be used to offset loss incurred from fuel price increase. He also queried the accuracy of the cost figures in KMB's power-point presentation materials, suspecting that they had been unfairly inflated to justify KMB's fare increase application.

43. MD explained that even with the 4.5% fare increase in 2008, KMB still incurred operating loss because of the sustained high fuel price then, and financial viability was restored only when the fuel price decreased in 2009. During the first ten months of 2010, however, fuel price had significantly gone up by 27% compared to the 2009 average price. The price of ultra low Sulphur diesel paid by KMB was at present US\$95 per barrel and it was going up towards US\$100 per barrel. KMB had also raised staff's wages every year in the past three years and other operating costs had increased in the meantime. Mr WONG Sing-chi, however, pointed out that KMB had only increased its staff's wages by 1.8% in 2010.

44. The Deputy Chairman pointed out that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong had long been calling for the establishment of a fuel price stability fund with extra profits or cost savings made when the fuel price was lower than the reference price, so that when the fuel price exceeded the reference price, the fund could release funds to ease the surge. DS(T)2 responded that there was great difficulty in determining the reference price given the need to collate substantial data and the complicated issues involved in sorting out differences between the public and bus companies in this regard. The Administration therefore considered it more appropriate for individual bus companies to mitigate fuel price increases through commercial mean such as fuel hedging.

45. The Chairman questioned how the Administration intended to stabilize bus fares considering the fact that bus operation was significantly affected by fuel cost. He considered the above proposed fuel price stability fund or a fare stabilization fund necessary, and urged the Administration to play a more active role in stabilizing fares by using the bus franchise as an incentive.

Queries of the proposed rates of increase

46. Mr IP Wai-ming and Miss Tanya CHAN considered the proposed rates of increase drastic and hence unacceptable. Suspecting that the rates had deliberately been set at a high level to allow room for cuts, Mr IP opined that KMB should be reprimanded for paying no regard to the well-being of the general public. He was particularly concerned about LW's proposed rate of

increase at 7.4%, pointing out that the pay increase of most airport staff who had to rely on its service could hardly make up for the increase in travelling expenses if LW increased its fares as proposed. He therefore urged the Administration to significantly reduce the proposed rates of increase, and consider requesting KMB/LW to provide more information to the Panel, including raw data on their financial performance.

47. In response, MD explained that KMB's proposed level of fare increase had been worked out on the basis of actual operating costs and revenue as shown on page 12 of KMB's power-point presentation, which indicated that while KMB's average daily fare revenue had decreased 2%, fuel cost, which accounted for 18% of KMB's total operating costs, had gone up 27%. In addition, cumulative pay rise for staff cost and tunnel tolls had also increased by 3.3% and 1.6% respectively. MD pointed out that the 27% increase in fuel cost alone had driven up KMB's operating costs by about 4%.

48. Mr Paul CHAN pointed out that it was only natural that members would have the impression that, as in the case in 2008, KMB had deliberately proposed a higher rate of increase in preparation for anticipated cuts made by the Administration because, when the above quoted cost increases were factored into the cost structure of KMB in page 10 of the power-point presentation materials, the rate of fare increase should in fact be only 6.5% instead of the 8.6% applied for. Moreover, decrease in daily patronage could hardly justify fare increase considering that the policy of developing railways as the backbone of Hong Kong's transport system had long been in place, and should have well been taken into account in KMB's development strategy. Furthermore, there was a need to note the positive effect of certain factors on KMB's operating costs, such as the current low interest rate environment, and hence shareholders' lower expectation regarding the "rate of return" included in the Modified Basket of Factors for consideration in assessing bus fare adjustments.

49. MD responded that the 27% increase in fuel cost had been worked out based on the average fuel price of US\$87.4 per barrel for January to October 2010 compared to the average fuel price of US\$69.0 per barrel for 2009. When KMB submitted the fare increase application in July 2010, it was estimated that the surge in fuel price would be more than 27% compared to 2009, and it was at present a market consensus that fuel price would further increase to over US\$100 per barrel in 2011. Hence, the fare increase application had not been based on the 27% increase in fuel price as presently quoted. Mr Paul CHAN, however, said that considering the fluctuations of fuel prices, KMB should conduct fuel hedging.

50. Mr KAM Nai-wai opined that the significant rates of increase proposed by KMB/LW were unacceptable, and would only give rise to a spate of increases in other charges and hence public grievances. He shared Mr Paul CHAN's views above, and asked the Transport and Housing Bureau to take action in response to them.

51. Ms Miriam LAU agreed with other members that the proposed rates of increase were high being way above CCPI and the general rate of salary increase. She however considered it necessary to note that transport operators, big or small, could hardly cope with the escalation of fuel price without Government subsidy or fare increase. She also noted that the policy of developing railways as the backbone of Hong Kong's transport system had contributed to a decrease in patronage of franchised buses and corresponding rationalization exercises had proceeded very slowly in view of local objections. Pointing out that the bus fare adjustment arrangement could not minimize disputes over the appropriate level of bus fare adjustments, she and Miss Tanya CHAN asked the Administration to advise on the formula outcome according to the bus fare adjustment arrangement.

52. DS(T)2 responded that the formula did not operate as an automatic determinant of fare adjustment outcome. The outcome of the formula would, however, be used as a reference indicator in considering whether the fare adjustment was justifiable. The Chief Executive (CE)-in-Council retained the ultimate power in determining bus fares and all the relevant factors in the basket would be taken into account. In response to the Chairman, she subsequently advised that based on the relevant figure of June 2010, the formula outcome would be about +0.9%, but emphasized that the then CCPI had been kept low in view of the Government's one-off relief measures. The relevant nominal wage index for the transport services had also not yet reflected the recent wage increases. In other words, the formula outcome would be subject to changes.

53. Noting the great difference between the rates of increase worked out through the relevant formula and those proposed by KMB/LW, the Chairman urged the Administration to address the problem so arising. If not, the public would find it very difficult to accept the great difference. He further opined that the Administration should have its own stance in this regard, and requested the Administration to provide a supplementary paper in response to his views above. He also urged the Administration to give due regard to the outcome of the relevant formula when making recommendations to ExCo. DS(T)2 assured members that the Administration would properly perform its gate-keeping role.

Admin

Other concerns

54. Mr Paul CHAN opined that the information paper for this agenda item (LC Paper No. CB(1)482/10-11(06)) had failed to provide essential financial figures to facilitate members' consideration of the fare increase applications. Miss Tanya CHAN shared his views, and pointed out that the paper should not omit the fact that as shown in the interim report of KMB's mother company, KMB had made some HK\$130 million profit in the first half of 2010.

(Post-meeting Note: KMB subsequently clarified that the fact was that KMB's profit after tax for the first half of 2010 was HK\$135.9 million, a decrease of 42.1% compared to HK\$234.9 million for the first half of 2009.)

55. DS(T)2 responded that the bus companies' financial data had not been covered in LC Paper No. CB(1)482/10-11(06) because representatives from KMB/LW would attend the meeting to explain their case for fare increases to members direct. Miss Tanya CHAN, however, considered it necessary for the Administration to ensure the provision of adequate information to enable members to prepare for the meeting. She indicated support for the motion which Mr WONG Kwok-hing had indicated intention to move.

Motion

56. After discussion, Mr WONG Kwok-hing moved the following motion, which was seconded by the Deputy Chairman –

"本委員會反對九巴及龍運申請大幅加價，促請政府在審批巴士公司加價申請時必須考慮有關申請加價幅度大大超過通脹率逾3倍的極不合理元素。"

(Translation)

"That this Panel opposes the applications for substantial fare increase made by KMB and LW, and urges the Government to, when vetting the fare increase applications by the bus companies, take into account the extremely unfair factor that the rates of increases applied for are more than three times the inflation rate."

57. The Chairman put the motion to vote. Seven members voted for the motion and no member voted against it. The Chairman declared that the

motion was carried.

V Any other business

58. There being no other business, the meeting ended at 10:40 am.

Council Business Division 1

Legislative Council Secretariat

27 January 2011