

立法會
Legislative Council

LC Paper No. CB(1)1345/10-11

Ref : CB1/PL/TP

Panel on Transport
Meeting on 25 February 2011

**Background brief on limitation on the number
of public light buses**

Purpose

This paper provides background information on issues relating to the limitation on the number of public light buses (PLB).

Background

2. PLBs are operated under passenger service licences issued by the Transport Department (TD). There are two types of PLB operation at present, viz. green minibuses (GMBs) and red minibuses (RMBs). GMBs operate scheduled services on fixed routes whereas RMBs operate on non-scheduled services. The routings, frequency and fares of GMB are subject to approval by TD.

3. Government's transport policy is to encourage the provision of public transport services by mass carriers comprising railways and franchised buses. PLBs perform a supplementary role in the public transport system in Hong Kong. In view of their supplementary role, the Government's established policy is to limit the total number of PLBs. The size of the PLB fleet of 4 350 was determined by the then Governor-in-Council through the Public Light Bus (Limitation on Number) Notice (the Notice) made under section 23(1) of the Road Traffic Ordinance (Cap. 374) (RTO). The effective period of the Notice has been extended from time to time through resolutions passed by the Legislative Council (LegCo) pursuant to section 23(3) of RTO. It was last extended on 24 May 2006 for a period of five years up to 20 June 2011.

The last proposal to extend the limitation on the number of public light buses

4. TD conducts surveys to monitor the operation of PLB services and ascertain the service level of GMB routes from time to time. In March 2006, TD carried out a survey to assess the operating situation of 23 high-frequency and high-demand GMB routes. The survey results showed that the average waiting time of these routes during peak hours ranged from one minute to two minutes only while the average daily loading of these routes was 59%. The survey findings reflected that the average waiting time for GMB routes was reasonable and the prevailing GMB service could adequately meet the demand of the passengers.

5. Based on the result of the above survey, the then Secretary for Environment, Transport and Works (SETW) gave notice to move a motion at the Council meeting on 24 May 2006 to seek LegCo's approval to further extend, for five years up to 20 June 2011, the period during which the number of registered PLBs would be limited. An information paper entitled "Limitation on the number of public light buses" was circulated to all Members vide LC Paper No. CB(1)1412/05-06(01) on 3 May 2006. The paper was noted by the Panel on Transport at its meeting on 26 May 2006.

6. According to SETW's draft speech for the proposed resolution, the total number of PLBs had been the same since 1976. The Administration considered it appropriate to extend the limitation on the total number of PLBs for five years up to 20 June 2011, having regard to the patronage of PLBs in the past few years as shown in the above survey and the planned expansion of railways in the coming years. The resolution was moved and passed at the Council meeting on 24 May 2006. Extracts of the relevant Hansard is in **Appendix I**.

Judicial review

7. On 25 August 2006, Glory Success Transportation Limited, a PLB operator, sought a judicial review to challenge the above motion. In its view, the Administration and LegCo had acted unfairly in extending the limitation without consulting stakeholders or taking into account changes in Hong Kong's transport situation. It sought to overturn the extension and called upon the Administration to conduct a proper evaluation of the PLB market, which in its view had room for moderate

growth.

8. After certain delays due to questions as to who the respondent to the application for judicial review should be, the case was heard on 10 November 2008 in the High Court. Because of the delays, the High Court decided to dismiss the application. The relevant decision is in **Appendix II**.

Latest developments

9. The Administration has proposed to brief the Panel on limitation on the number of PLBs at the next meeting scheduled for 25 February 2011. In this regard, members may wish to note the following two submissions from the Taxi & P.L.B. Concern Group –

- (a) Submission demanding issue of more passenger service licences for PLBs (LC Paper No. CB(1)1119/10-11(03) issued on 20 January 2011); and
- (b) Submission on how to address concerns about the demand and supply of PLB service (LC Paper No. CB(1)1297/10-11(01) issued on 15 February 2011).

Relevant papers

10. A list of relevant papers is in **Appendix III**.

Council Business Division 1
Legislative Council Secretariat
21 February 2011

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

CLERK (in Cantonese): Revenue Bill 2006.

MOTIONS

PRESIDENT (in Cantonese): Motions. Proposed resolution under the Road Traffic Ordinance.

PROPOSED RESOLUTION UNDER THE ROAD TRAFFIC ORDINANCE

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, since 1976, the total number of vehicles which may be registered as public light buses (PLBs) has been limited at the level of 4 350. The limitation was promulgated by the Executive Council in 1986 through the Public Light Buses (Limitation on Number) Notice. The effective period of the Notice was extended from time to time through resolution passed by the Legislative Council, and it was last extended in June 2001 for five years to 20 June 2006. This motion proposes to further extend the effective period of this limitation for another five years until 20 June 2011.

Given the limited road space and community concerns about environmental impact created by road-based vehicles, the authorities accord priority to the development of mass carriers *viz* railways and franchised buses with other transport modes assuming a supplementary role. PLBs supplement the mass carriers in the public transport system with the major functions to provide feeder service to railway stations and public transport interchanges, and serve areas where passenger demand does not justify the provision of high capacity services.

Currently, PLBs make up about 16% of the overall public transport market. In the past few years, the patronage of PLBs has remained stable at around 1.6 million to 1.7 million per day. There is spare capacity for PLBs to meet the passenger demand. In the coming years, it is expected that the planned expansion of railways will increase the carrying capacity of the overall public

transport system. Growth in the number of PLBs will only cause unhealthy competition within the PLB trade and among other public transport operators. Given the unlikely surge in demand for PLB service, we consider it appropriate to extend the existing limitation on the total number of PLBs at 4 350 for a period of five years up to 20 June 2011. This will also provide greater certainty for the PLB trade to effectively perform its function in the public transport market.

Looking ahead, the Government will continue to implement measures to encourage the conversion of red minibuses to green minibuses (GMB). In pursuance of this objective, the Transport Department will continue to identify suitable new GMB routes to be grouped into packages for open bidding by interested operators. The Government will also liaise closely with the PLB trade to explore measures for improving their operating environment.

President, I beg to move.

The Secretary for the Environment, Transport and Works moved the following motion:

"RESOLVED that the period for which there remains in force the limit on the number of vehicles which may be registered as public light buses specified in the Public Light Buses (Limitation on Number) Notice (Cap. 374 sub. leg. K) and extended to 20 June 2006 by Legal Notice No. 141 of 2001, be further extended to 20 June 2011."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for the Environment, Transport and Works be passed.

MR WONG KWOK-HING (in Cantonese): Madam President, Hong Kong has long been renowned internationally for its advanced and well-developed public transport system. Thanks to its transport networks, with railway as the backbone and complemented by Light Rail Transit (LRT), buses, public light buses (PLBs), Hong Kong, unlike other major cities, does not frequently see traffic congestions lasting one or two hours during peak hours. Reducing the number of private vehicles can also make the operation of the entire city more

environmentally-friendly. In a community emphasizing speed and convenience like Hong Kong, the importance of PLBs is particularly prominent, as opposed to such mass carriers as Mass Transit Railway (MTR), LRT and buses.

Madam President, PLBs are convenient in the sense that they serve as a compromise between private vehicles and buses. Hong Kong's cityscape is characterised by busy commercial centres and a large number of major housing estates. As it is extremely common for homes and workplaces to be far apart, there will be a drastic increase in transport needs within a short span of time, during the so-called peak hours, or commuting hours. However, the same places could return to dead silence during non-peak hours, with only very few commuters on the road. Using such mass carriers as MTR or buses to serve residential areas will therefore only lead to mismatch of resources. By contrast, PLBs can speedily meet transport needs in different periods by flexibly deploying the required number of vehicles to ease the flow of commuters. At present, we do not notice a huge demand for more PLBs, except that there are inadequate PLB routes serving certain areas. The present quota, 4 350 PLBs, is therefore compatible with the road space requirement in the territory. Yet, we have received some complaints from residents about the halting of both PLB and bus services in certain areas, such as Cheung Wang Estate and Cheung Hang Estate in Tsing Yi and Kwai Chung Estate in Kwai Chung, during certain periods, particularly at or past midnight. As neither bus nor PLB services are provided in these places after midnight, I hope the Administration can keep this in view and take follow-up action to respond to the aspiration of the residents.

Madam President, besides encouraging the conversion of red minibuses (RMBs) to green minibuses (GMBs), the Government should also review the policies relating to GMBs. At present, most operators and drivers adopt a profit-sharing approach. In other words, drivers receive low or zero basic salary, and profits are shared according to the number of passengers. As a result, drivers can earn more if they work harder. This income arrangement, calculated on the basis of trips made, directly encourages drivers to make more trips in order to earn more. This explains the frequent occurrences of such extraordinary means as speeding, red light jumping and indiscriminate overtaking. Despite the amendment to the licensing requirements for GMBs early this year requiring that operators must employ drivers to operate their GMBs, some operators still conceal their secretive actions because even Mandatory Provident Fund contributions can be saved should the profit-sharing model be adopted, and a large sum of expenses can very probably be saved in the

end. I hope the Government can pay more attention to the fact that some GMB operators still use the profit-sharing model, instead of merely awarding GMB routes. If these practices are not tackled seriously, GMB drivers will have no job security at all. Without job security, they will not have peace of mind while driving. Such being the case, the safety of passengers can hardly be protected effectively.

Madam President, the public transport network in Hong Kong is so convenient and efficient that places as remote as the rural areas can be reached at any time. At the same time, an efficient public transport network can lower people's desire of purchasing vehicles, and in turn enhance the efficiency of the operation of road networks. PLBs indeed play an important role in making our public transport network so efficient. Therefore, in the interest of the people, and for the sake of the development of the industry, the Government should expeditiously and comprehensively review its PLB policy. Thank you, Madam President.

MS MIRIAM LAU (in Cantonese): Madam President, the Liberal Party supports the resolution, which limits the number of vehicles which may be registered as PLBs to 4 350 in the next five years. However, I still wish to express some views on the PLB policy of the Government.

In her speech, the Secretary used the word "stable" and also talked about "certainty". First, she said, "In the past few years, the patronage of PLBs has remained stable at around 1.6 million to 1.7 million per day." If Members study the patronage of PLBs carefully, they will realize that behind this "stable" situation, there actually lies the plight of the PLB industry. In 2001, the average daily patronage of a GMB was 449 passenger trips and that of a RMB was 280 passenger trips. In 2005, the average daily patronage of a GMB increased by only 26 passenger trips to 475. As for RMBs, the average daily patronage also showed a very small increase, rising by just two passenger trips to 282. But in the past five years, oil prices, insurance premiums and repairs and maintenance expenses all went up, and at the same time, there were also various restrictions on GMB fare rises. Therefore, the stable patronage of 1.6 million to 1.7 billion passenger trips per day can in fact show that the business of PLBs (especially RMBs) has turned increasingly difficult.

Second, she remarked, "This (the extension of the existing limitation on the total number of PLBs) will also provide greater certainty for the PLB trade to effectively perform its function in the public transport market." Admittedly, keeping the number of PLBs at 4 350 can indeed provide certainty for the PLB trade, but the maintenance of certainty should not be the only goal of the Government. It should also seek to expand the scope of business of PLBs. One of the means is to identify a greater number of suitable maxicab routes and allow RMB operators to apply for franchise. The reason is that the average daily patronage of GMBs is after all higher than that of RMBs, and the patronage of the former is also more secure. However, the pace of converting RMBs into GMBs has not been satisfactory enough. In the past five years, the number of GMBs increased only by 11.9%.

As rightly pointed out by the Secretary, there is still spare capacity for PLBs to meet passenger demand. Even though the Government accords priority to the development of mass carriers, it should still actively and proactively assist PLBs and other ancillary modes of transport in expanding their scopes of operation, instead of concentrating only on certainty.

Madam President, I so submit.

PRESIDENT (in Cantonese): Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now call upon the Secretary for the Environment, Transport and Works to reply.

SECRETARY FOR THE ENVIRONMENT, TRANSPORT AND WORKS (in Cantonese): President, first of all, I would like to thank the two Members for giving their invaluable views just now on the role of PLBs in the overall public transport system and the future development of PLB service. With respect to enhancing the service quality of PLBs and ensuring the stable operation and development of the PLB trade, we share the same views. I will thus give Members' views just now careful consideration. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by the Secretary for the Environment, Transport and Works be passed. Will those in favour please raise their hands?

(Members raised their hands)

PRESIDENT (in Cantonese): Those against please raise their hands.

(No hands raised)

PRESIDENT (in Cantonese): I think the question is agreed by a majority of the Members present. I declare the motion passed.

PRESIDENT (in Cantonese): Proposed resolution under the Pharmacy and Poisons Ordinance to approve the Pharmacy and Poisons (Fee Revision) Regulation 2006 and the Pharmacists (Disciplinary Procedure) (Fee Reduction) Regulation 2006.

PROPOSED RESOLUTION UNDER THE PHARMACY AND POISONS ORDINANCE

SECRETARY FOR HEALTH, WELFARE AND FOOD (in Cantonese): Madam President, I move that the Pharmacy and Poisons (Fee Revision) Regulation 2006 and the Pharmacists (Disciplinary Procedure) (Fee Reduction) Regulation 2006 as set out under my name in the paper circulated to Members be approved.

Fees relating to registration of pharmaceutical products and licensing of concerned traders and manufacturers are prescribed under Schedule 9 to the Pharmacy and Poisons Regulations. Fee relating to verbatim record of proceedings of an inquiry held by the Disciplinary Committee of pharmacists is prescribed under regulation 4(2) of the Pharmacists (Disciplinary Procedure) Regulations. Most of these fees were last revised in 1994.

It is government policy that fees should in general be set at levels sufficient to recover the full cost of providing the services. However, most of the fees

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Appendix II

HCMP 2059/2008

**IN THE HIGH COURT OF THE
HONG KONG SPECIAL ADMINISTRATIVE REGION
COURT OF APPEAL**

MISCELLANEOUS PROCEEDINGS NO. 2059 OF 2008
(ON AN INTENDED APPEAL FROM HCAL NO. 93 OF 2006)

BETWEEN

GLORY SUCCESS TRANSPORTATION LIMITED Applicant

and

SECRETARY FOR JUSTICE 1st Respondent

THE PRESIDENT OF THE LEGISLATIVE COUNCIL OF 2nd Respondent
THE HONG KONG SPECIAL ADMINISTRATIVE REGION
IN HER PERSONAL CAPACITY AND AS
REPRESENTATIVE OF ALL THE OTHER MEMBERS OF
THE LEGISLATIVE COUNCIL

SECRETARY FOR JUSTICE Interested Party

Before: Hon Rogers VP and Le Pichon JA in Court

Date of Hearing: 10 November 2008

Date of Decision: 10 November 2008

D E C I S I O N

Hon Rogers VP:

1. On 21 September 2006, Hartmann J gave leave to bring judicial review proceedings. There was no written decision or even, it would seem, an oral decision, other than the fact that leave was granted.

2. On that application, the Respondent was named as the Secretary for Justice. Since then there has been a great deal of to-ing and fro-ing as to who the Respondent should be. At present the Respondent is named as the President of the Legislative Council of the Hong Kong Special Administrative Region in her personal capacity and as representative of all other members of the Legislative Council.

3. The matter came before Chu J as long ago as September of last year on an application for an order that the Legislative Council of the Hong Kong Special Administrative Region, whose address is situated at the Legislative Council Building, 8 Jackson Road, Central, Hong Kong, be added as the 2nd Respondent to the application for judicial review, and that the notice of motion filed herein on 28 September 2006, the notice of application for leave to apply for judicial review filed on 23 August 2006, and the affirmation of Ng Siu-chun filed herein on 23 August 2006, and the exhibits therein referred to, do stand as against the 2nd Defendant, and that the hearing of the motion be adjourned to a date to be fixed.

4. On that application, which was heard on 21 February 2008, the judge made the following order:

- “(1) Leave to the Applicant to add the President of the Legislative Council of the Hong Kong Special Administrative Region in her personal capacity and as representative of all other members of the Legislative Council as a 2nd Respondent to these proceedings;
- (2) Leave to amend the Form 86A of the notice of motion accordingly;
- (3) The Secretary for Justice is at liberty to remain in these proceedings as an interested party.”

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And then there are further directions given that:

- “(4) The Applicant’s solicitors shall write and inform the Secretary General of the Legislative Council of the outcome of today’s hearing;
- (5) The Secretary General of the Legislative Council shall, within 14 days after being notified, lodge with the court and serve on the Applicant his written submission on the costs of the application;
- (6) The Applicant shall, within 14 days thereafter, lodge with the court and serve the Secretary General his written submissions in reply.”

And there were subsequent directions for a further submission.

5. On 31 March, following written submissions which had been made earlier that month, the judge handed down her decision on the costs in which she had dealt with some of the questions which arose as to who should be the proper party.

6. Following the making of the order joining the President of the Legislative Council as the Respondent in her personal capacity, attempts were made to serve. Then matters became complicated, not only because of difficulties in serving members of the Legislative Council whilst the Legislative Council was in session, but also because of the provisions of the Legislative Council Powers and Privileges Ordinance, Cap. 382, section 6, which prevents service on the President, and also there were difficulties because the lady who was President at the time the order was made was clearly not going to be President thereafter because she was not seeking re-election in last summer’s elections. So all of these difficulties were facing the Applicant.

7. The Applicant now applies today for leave to appeal the order of Chu J out of time, but it is, I regret to say, very much out of time, because it

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seems to me that the important matter which this court must bear in mind in any judicial review proceedings is that judicial review proceedings must be made promptly. The Rules of Court provide that there is an outer time limit in making application for judicial review, and this court has had cause to consider this matter before. But implicit in that, it seems to me that any proceedings for judicial review must be prosecuted promptly, and it is no use coming to court saying, "Well, I started my judicial review application promptly, but thereafter, for one reason or another, I haven't got on with it."

8. On this occasion I have to say that it is Mr McCoy SC, who has appeared on behalf of the Applicant, as he has done on the initial application, referred to this as "novel jurisprudence". I would simply say, having read Mr Bleach SC's written submissions on behalf of the Secretary for Justice, that I consider this to be more aptly described as "adventurous jurisprudence", and that, in my view, weighs on this application, because I do not see that it is right for this court to extend the time on this occasion.

9. It is for the Applicant to choose who the Respondent should be. It is for the Applicant, on advice, to do so. It is not for the court to pick the Respondent to any particular application. It is not for the court to give advice as to it. It is for the Applicant to make up its own mind and to take proceedings as it sees fit.

10. On this occasion, I regret that the delay in bringing this appeal is too long, and I do not consider that this court should extend time, particularly as this is a judicial review application; and I do not see that the underlying merits of the application itself should deter the court from coming to that conclusion.

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11. In my view, therefore, this application falls to be dismissed.

Hon Le Pichon JA:

12. I agree with the judgment of the Vice-President.

(Anthony Rogers)
Vice-President

(Doreen Le Pichon)
Justice of Appeal

Mr Gerard McCoy SC and Mr Hylas Chung, instructed by Messrs Gary Lau & Partners, for the Applicant

Messrs Lo & Lo, for the 2nd Respondent and the Secretary General of the Legislative Council Secretariat (Attendance excused)

Mr John Bleach SC and Mr Jin Pao, instructed by Department of Justice, for the Interested Party

Appendix III

Limitation on the number of public light buses

List of relevant papers

Date of meeting	Committee	Minutes/Paper	LC Paper No.
	Panel on Transport	Administration's paper on limitation on the number of public light buses	CB(1)1412/05-06(01) http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tpcb1-1412-1e.pdf
12 May 2006	House Committee	Legal Service Division Report on Proposed Resolution under section 23(3) of the Road Traffic Ordinance (Cap. 374)	LS65/05-06 http://www.legco.gov.hk/yr05-06/english/hc/papers/hc0512ls-65-e.pdf
		Minutes of meeting	CB(2)2029/05-06 http://www.legco.gov.hk/yr05-06/english/hc/minutes/hc060512.pdf
24 May 2006	Council meeting	Hansard	http://www.legco.gov.hk/yr05-06/english/councilmtg/hansard/cm0524ti-translate-e.pdf