

A. Introduction

The Audit Commission ("Audit") conducted a review of the administration of road safety measures with focus on the following areas:

- measures to tackle drink driving;
- measures to tackle speeding and red light jumping;
- measures to promote safer vehicle operation;
- accuracy of traffic accident data; and
- publicity and education programmes.

2. **Hon Abraham SHEK Lai-him** declared that he was currently a member of the Independent Police Complaints Council ("IPCC") and an Independent Non-executive Director of the NWS Holdings Limited under which the New World First Bus Services Limited and Citybus Limited run franchised bus business. He further said that he held a Hong Kong driving licence and had been fined for speeding.

3. **Hon Paul TSE Wai-chun** said that he held a Hong Kong driving licence and the Hong Kong Police Force ("the Police") had filed traffic conviction record(s) of him.

4. **Hon Kenneth LEUNG** declared that he was currently a member of the IPCC and the Police had filed traffic conviction record(s) of him.

5. **Hon CHAN Hak-kan** said that the Police had conducted the random breath test on him the week before the public hearing on this chapter.

6. **Hon Alan LEONG Kah-kit** said that he held a Hong Kong driving licence.

7. **Professor Anthony CHEUNG, Secretary for Transport and Housing**, made an opening statement at the public hearing on 4 May 2013. The full text of his statement is in *Appendix 6*.

8. As stated in paragraphs 1.2 and 1.5 of the Director of Audit's Report No. 60 ("Audit Report"), Hong Kong recorded a 4% increase in the number of traffic accidents from 15 315 in 2007 to 15 894 in 2012, whilst its road traffic fatalities had declined from 160 in 2007 to 120 in 2012 and is one of the lowest in the world. The Committee asked:

- how the road traffic fatalities in Hong Kong compared with those of major world cities; and
- whether the Transport Department ("TD") had taken into account the usage of public transport and development density of Hong Kong when making such comparison with major world cities.

9. **Mrs Ingrid YEUNG HO Poi-yan, Commissioner for Transport**, replied at the hearing and in her letter of 16 May 2013 (in *Appendix 7*) that:

- Hong Kong recorded 17 road traffic fatalities per million population in 2012, as compared to 14 in Tokyo in 2012, 19 in London in 2011, 31 in Taipei in 2011 and 38 in Singapore in 2011;
- of the 120 road traffic fatalities in Hong Kong in 2012, 15 were related to traffic accidents happened on expressways, representing 12.5% of fatalities on all roads;
- the 120 road traffic fatalities in Hong Kong in 2012 contributed to about 8% of fatalities of all external causes in 2012. Typical examples of other types of external causes included suicide, falls, accidental poisoning, fire accidents and homicide, etc.;
- amongst those major world cities which the TD could obtain relevant information on accident involvement rates for public transport, TD considered it more appropriate to compare the accident involvement rates of London with those of Hong Kong, having regard to the public transport system and its usage, as well as the development density of the two places; and
- when compared with those of London, the accident involvement rates of different modes of the public transport in Hong Kong were generally on the lower side.

B. Measures to tackle drink driving

10. The Road Traffic Ordinance (Cap. 374) provides the Police with the power to conduct breath tests on a driver who is suspected of having consumed alcohol when driving a vehicle, or has committed a traffic offence when the vehicle is in motion, or has been involved in an accident. The breath test procedure is made up of two parts: a screening breath test and an evidential breath test. The screening breath test is conducted at the scene. If a driver fails the screening breath test, he may be put under arrest for undergoing an evidential breath test. An evidential breath test is conducted in a police station/evidential breath test centre. If a driver fails the evidential breath test, he will be charged with a drink driving offence. In 2008, the law was further amended to empower the Police to conduct breath tests on drivers without the need for reasonable suspicion that they have consumed alcohol. The drivers are selected at random and a random breath test is performed on roadside. If a driver fails the random breath test, he is required to undergo the screening breath test and evidential breath test as appropriate.

Implementation of random breath tests

11. According to paragraph 2.9 of the Audit Report, 24% of the drink driving related accidents occurred between 6:01 am and 6:00 pm (daytime) and 76% occurred between 6:01 pm and 6:00 am (nighttime) for the period February 2009 to December 2012. However, 42% of the random breath tests were conducted during the daytime and 39% were conducted between 9:01 pm and 6:00 am for the period February 2009 to December 2012. In view of the fact that drink driving was more prevalent during the nighttime than daytime, the Committee asked:

- what were the criteria for determining the timing of random breath test operations; and
- what were the criteria for determining the random breath test locations.

12. **Mr Andy TSANG Wai-hung, Commissioner of Police**, explained that:

- due to the grave consequence of drink driving, there was a need for conducting sufficient random breath tests at all times to deter irresponsible drink driving behaviour;
- the fact that the number of random breath tests conducted during the nighttime was lower than that conducted during the daytime did not

necessarily mean that the number of random breath test operations mounted during the nighttime was on the low side as compared with that mounted during the daytime, as the traffic flows during the nighttime, in particular during mid-night, was lighter than daytime;

- carrying out the random breath test operations during the daytime and when approaching the hours of darkness had created greater deterrent effect by increasing the awareness of drivers;
- drink driving enforcement was only one of the Police's enforcement commitments, and equally important was the need to prevent speeding, handle traffic accidents, and maintain smooth traffic flow. The multitude of policing commitments required most of the police officers to be deployed intensively between 6:00 am and 11:00 pm every day to cope with heavy traffic flow, which affected the Police's capacity to dedicate extra resources to combating drink driving specifically outside the aforesaid time period;
- nevertheless, the Police would mount more random breath test operations during the nighttime where resources permitted; and
- breath test operations would only be mounted at locations which were safe for setting up roadblocks. Whilst the element of "randomness" was to be maintained in order to maximize the deterrent effect of random breath tests, a risk-based approach was adopted in deciding random breath test locations by considering the routes to bars/pubs area, drink driving related accident locations and number of public complaints.

13. The Committee noted from paragraph 2.14 of the Audit Report that, given the system limitation, the Police was unable to capture the locations and the timing for each random breath test operation except the timing for each random breath test. The Committee asked what measures would be taken by the Police to address the problem.

14. **Commissioner of Police** responded that:

- the existing system of the Police only captured the location and timing for each screening breath test and the number of random breath tests conducted. As the number of random breath tests far outnumbered that of the screening breath tests, to also capture the locations and timings

for all random breath tests would inevitably incur additional manpower resources to input a huge amount of data as well as financial resources to upgrade the existing system;

- although the existing system was unable to capture the location and timing for each random breath test, the police officers responsible for conducting the random breath test operations had to report the outcome of the operations to their superiors; and
- in response to Audit's recommendation, the Police would explore to include the dates, times and locations of the random breath test operations in the new Communal Information System, so that pattern and record data could easily be retrieved for strategic planning of operations as well as for analysis purposes.

Enforcement of the three-tier penalty legislation

15. In December 2010, the law was amended to provide a three-tier penalty system in proportion to drivers' alcohol concentration levels. As the alcohol concentration level usually decreases with time due to body metabolism, it is important to complete the evidential breath test within the shortest possible time so as to minimize the impact of the drop in alcohol concentration level on the test result.

16. As stated in paragraph 2.18 of the Audit Report, the time intervals between screening and evidential breath tests for the 744 drink driving arrests made from January to October 2012 averaged 44 minutes (ranging from 15 minutes to 90 minutes). According to the screening test results, 254 drivers (34% of the 744 cases) were suspected of having Tier 1 alcohol level, 351 (47%) Tier 2 alcohol level and 139 (19%) Tier 3 alcohol level. However, as revealed in paragraph 2.19 of the Audit Report, by the time the evidential breath tests were taken, the alcohol concentration levels of 182 drivers (24% of 744 cases) had dropped below the Tier 1 level and hence they were released. In addition, 215 drivers (29% of 744 cases) were charged with a lighter offence as their alcohol concentrations had also dropped to lower tiers. In view of the time lag between the screening and evidential breath tests on the test results, it appeared to the Committee that the enforcement of the three-tier penalty legislation had not been carried out effectively. The Committee asked what improvement measures would be taken to rectify the inadequacies.

17. **Commissioner of Police** responded that:

- the average time interval between screening and evidential breath tests had been shortened from 70 minutes to 44 minutes;
- the reasons why some evidential breath tests took longer than the overall average of 44 minutes to complete were due to one or more of the following factors:
 - (a) as only 24 of the 42 police stations and four evidential breath test centres were equipped with an evidential breath test device, additional travelling time was incurred for taking the persons put under arrest for undergoing an evidential breath test to other police stations equipped with such devices or evidential breath test centres for taking evidential breath tests;
 - (b) because of the breakdown of the evidential breath test devices in some police stations, additional travelling time was incurred for taking the persons put under arrest for undergoing an evidential breath test to other police stations equipped with such devices or evidential breath test centres for taking evidential breath tests; and
 - (c) requests made by persons put under arrest for undergoing an evidential breath test for interpretation service as they could not converse in either Chinese or English or for their legal advisers to be present before taking the evidential breath test; and
- to ensure the timeliness of evidential breath test, the Police would take/had taken the following actions:
 - (a) subject to availability of internal deployment of resources, the Police would equip those police stations which presently were without evidential breath test devices with such devices within a year. The reason why these devices were not installed in all police stations at the outset was due to space constraint. The old device required a separate room, which was no longer the case for the new device;
 - (b) to obviate the need for taking evidential breath test at police stations, the Police had in January 2011 acquired for testing two mobile evidential breath test devices; and

- (c) to further reduce the downtime of the evidential breath test devices, apart from the maintenance and calibration work carried out by the contractor every three months, the Traffic Formations would conduct routine checks on evidential breath test devices on a weekly basis. In the past 15 months, the downtime of the evidential breath test devices only comprised 1% of their operation time.

18. The Committee noted from Note 10 to paragraph 2.16 of the Audit Report that according to medical research overseas, after consuming alcohol, blood alcohol level would initially increase due to absorption through the stomach. Thereafter, blood alcohol level would decrease due to body metabolism. The Committee asked whether consideration would be given to exploring the feasibility of cooperation between the respective scientists and the Prosecutions Division of the Department of Justice in improving the evidential breath test procedure in adducing evidence to prove drink driving offences.

19. **Commissioner of Police** responded that:

- as body metabolism varied from individual to individual, the drop in alcohol concentration levels of the drink driving arrests could not be worked out by applying a simple projection;
- in serious traffic accidents that involved drink driving, the Police would engage professional experts from the Government Laboratory in the assessment of alcohol concentration levels of the drink driving arrests to ensure the admissibility of evidence by the court;
- under special circumstances, the Police would consider on a case-by-case basis whether there was a need to engage professional experts from the Government Laboratory to assess the alcohol concentration levels of the drink driving arrests; and
- apart from exchanging views and experience with law enforcement agencies, the Police would also take into account the advice from other professional experts as necessary in the enforcement of the three-tier penalty legislation.

20. The Committee enquired about the reasons for the long time taken by the Police to roll out the mobile evidential breath test device.

21. **Commissioner of Police** explained at the hearing and in his letter of 16 May 2013 (in *Appendix 8*) that:

- in September 2011, the Police commissioned a local university to perform the User's Acceptance Test ("UAT") on the identified Dräger Alcotest 9510 breath analysing instrument. The devices were however required to be returned to the manufacturer in Germany for adjustment due to the technical problems encountered in the course of the UAT;
- the UAT was subsequently completed in December 2012 and all samples sent for examination complied with both the metrological requirements as stipulated in the Organisation Internationale de Métrologie Légale recommendations for Evidential Breath Analysers and the technical specifications mentioned in the operator manual of Dräger Alcotest 9510;
- in March 2013, the Police further commissioned the Hong Kong University of Science and Technology ("HKUST") to conduct a comprehensive mobility performance test on the evidential analyzer Dräger Alcotest 9510 against a number of the outdoor environmental factors of Hong Kong such as humidity and temperature under a mobile setting. Such test and the subsequent expert report provided by the HKUST would be of significant evidential value to the reliability and admissibility of the instrument in future court proceedings; and
- it was anticipated that the test would be completed in the fourth quarter of 2013 and subject to satisfactory test results, the mobile evidential breath test would be rolled out.

C. Measures to tackle speeding and red light jumping

Operation of the speed enforcement camera system

22. The Committee noted from paragraph 3.10 of the Audit Report that a new technology called average speed camera system had been used in other jurisdictions since 1999 to influence driver behaviour over a greater distance. In an average speed camera system, two cameras are installed, one at the entrance and one at the exit of the road section being monitored. The system employs Automatic Number Plate Recognition technology to identify individual vehicle as it passes the entrance and exit cameras, so as to calculate its average speed over the road section. If the average speed is above the speed limit, data captured by the system can be used as evidence for

prosecution. Drivers would be more inclined to observe their speed over the entire section of road being monitored by the average speed camera system, rather than just at individual spots. The TD only commenced studying the feasibility of using the average speed camera system in Hong Kong in 2007 and planned to launch a trial of the system in 2013-2014. Against this background, the Committee asked about the reasons for not commencing the feasibility study earlier and the long time taken by the TD to put the average speed camera system to trial run, and the details of the trial scheme.

23. **Commissioner for Transport** responded that:

- it took considerable time for the Administration to consider the issue on compliance of the Personal Data (Privacy) Ordinance (Cap. 486) arising from the use of an average speed camera system. Unlike the speed enforcement camera system which only collected data/photographs of the violating vehicles, the average speed camera system used the Automatic Number Plate Recognition technology to identify the licence plate of every vehicle passing through the entrance and exit of the road section for matching;
- to address the concern on infringement of right of privacy, the following measures would have to be taken:
 - (a) all images recorded by the average speed camera system would be encrypted at the time of capture, making them not recognizable to unauthorized persons; and
 - (b) after the average speed of the vehicle was calculated, ascertaining whether there had been a violation of speed limit, only data showing a speeding offence would be retained for prosecution. All other data and images would be immediately discarded on the spot;
- as evidenced by overseas practice, the average speed camera system was still immature in 2000 when it was first implemented in some other jurisdictions. The manufacturer had since made continual adjustments and improvements to the average speed camera system to tackle various technical problems. The average speed camera system was only implemented in Australia in 2010;

- in 2007, the TD had, in conjunction with the Transport and Housing Bureau ("THB") and the Police, commenced studying the feasibility of using the average speed camera system in Hong Kong including the admissibility to the court of the evidence so collected;
- drawing on overseas experience, the use of average speed camera system to influence driver behaviour was mainly effective on expressways or highways. To achieve the desired level of effectiveness, due consideration had to be given to identifying the appropriate locations for the installation of the system;
- in 2012, the TD engaged a consultant to carry out preliminary design for conducting a trial of the average speed camera system at the Shenzhen Bay Bridge of the Hong Kong Shenzhen Western Corridor;
- it was estimated that the procurement and installation of the average speed camera system for a trial period of one year at the Shenzhen Bay Bridge of the Hong Kong Shenzhen Western Corridor would require \$11.3 million;
- the TD planned to seek funding approval from the Finance Committee of the Legislative Council for implementing the trial scheme of the average speed camera system in 2013-2014; and
- the Shenzhen Bay Bridge of the Hong Kong Shenzhen Western Corridor was chosen as it had around 4 kilometres (km) of high speed road with variable speed limit signs at a maximum of 100 kilometres per hour (km/hr). The deterrent effect of the average speed camera system over a long distance and its applicability on roads with variable speed limits could be tested in the trial scheme. The admissibility of the data/photographs so collected in court proceedings could also be tested. The privacy risk associated with the operation of the average speed camera system would be evaluated. The TD would closely monitor the cost-effectiveness and performance of the average speed camera system during the implementation of the trial scheme.

24. On the question of how overseas jurisdictions addressed the concern about infringement of right of privacy arising from the use of average speed camera system, **Commissioner for Transport** replied in her letter of 16 May 2013 (in Appendix 7) that:

- in Australia, the legislation that regulated the use of traffic cameras made it clear that the images (whether or not they contained any personal information) could only be used for speeding or other traffic offences, or for any other purposes that were authorized by law. The images recorded by the average speed camera system did not identify a driver or other vehicle occupants but the licence plates. All images were encrypted at the time of data capture, and protected by a digital signature for verifying the authenticity of the evidence. The encryption and decryption keys were only made available to authorized persons;
- in New Zealand, cameras should not be able to inadvertently capture images within someone's private property, nor capture any other personal information because the legislation protected individuals from having their private property exposed by other parties. The cameras of average speed camera system were employed to observe solely the traffic on the roads;
- in Norway, the Data Protection Agency was authorized to inspect the average speed camera system on how personal data was handled in order to ascertain whether the data was stored and deleted in accordance with the regulations. The camera boxes and central servers would be reviewed to verify that all personal data in connection with the average speed camera system operations never left the boxes containing the cameras and was deleted as soon as the speeds of the vehicles were determined. The same applied to data from offending vehicles after the maximum number of days (30) of storage; and
- in European Union countries currently adopting the average speed camera system, data of vehicles not exceeding speed limits were automatically erased by the systems for privacy reasons. Data protection should not therefore constitute a major legal obstacle for the deployment of the average speed camera system. However, legislation varied from country to country. Since data from all vehicles entering a section of a road equipped with the average speed camera system were collected and processed in the first step before they were finally erased, it had been made clear that the whole process should comply with the legislation of individual countries.

Operation of the red light camera system

25. The Committee noted from paragraphs 3.12-3.14 of the Audit Report that at present, the red light camera system took rear side photograph of an offending vehicle in order to show that the offending vehicle was travelling when the red light was on. From October to December 2012, 2 109 (9%) of the 22 871 red light jumping cases detected by the red light camera system could not be pursued because the images of the offending vehicles on the offside lane were blocked by other vehicles on the kerbside lane. The Committee asked:

- what improvement measures would be taken by the TD to enhance the effectiveness of the red light camera system; and
- whether consideration would be given to installing multiple cameras systems with less dazzling flash to take both the frontal and rear side photographs of the offending vehicles for identifying the offending drivers.

26. **Commissioner for Transport** responded that:

- since 2009, the enforcement camera systems had started capturing digital images and the quality of the images had been greatly enhanced. The systems had also been enhanced with optical character recognition capability to identify the licence plate of the offending vehicles. This had improved the efficiency and effectiveness of the enforcement actions;
- the blockage of the images of the offending vehicles (from October to December 2012) mostly occurred at 126 red light camera system locations, some of them with heavy traffic flow of franchised buses;
- there were practical difficulties in installing more red light camera systems at a location where there was traffic light because of insufficient space for building the foundations for the systems due to the congested underground utilities and road condition in Hong Kong;
- drawing on overseas experience, not all blockage of the images of the offending vehicles in red light jumping cases could be eliminated with the use of the multiple cameras system;
- as only 9% of the images of the offending vehicles had been blocked by other vehicles from October to December 2012 and higher cost would be

incurred for the installation of the multiple cameras system, the Administration considered it more cost-effective to deploy additional resources for the installation of the red light camera system at other sites to enhance the overall deterrent effect against red light jumping;

- TD planned to adopt remote long distance data transfer technology so that law enforcement officers would no longer be required to collect the data on sites; and
- TD would also explore the feasibility of adopting other new technologies to provide more quality images and video records of the offending vehicles to further improve the effectiveness of the enforcement camera systems. TD would consult the Road Safety Research Committee under the Road Safety Council ("RSC") on the way forward.

27. The Committee noted from paragraph 3.5 of the Audit Report that with the use of enforcement camera systems, the Police was able to capture the photographs showing the registration marks of the offending vehicles and hence identify the offending vehicles and vehicle owners concerned. The Committee enquired what actions would be taken if the offending drivers could not be identified.

28. **Commissioner of Police** responded that upon receipt of the data collected by the enforcement tools, the Police would contact the registered owners of the offending vehicles for the identification of the offending drivers. If the registered owner of the offending vehicle was an individual and he was unable to provide information for identifying the offending driver, he could upon conviction be liable to a fine or imprisonment. If the registered owner of the offending vehicle was a corporation and the corporation was unable to provide information for identifying the offending driver, the corporation could upon conviction be liable to a fine instead of imprisonment.

29. Given the prevalence of digital cameras being installed on taxis and other motor vehicles, the Committee considered that apart from the Police's enforcement camera systems, the photographs and/or video records so collected by the digital cameras and uploaded onto the Internet could be used for enforcement and prosecution. In this regard, the Committee asked whether consideration would be given to making use of the photographs or video records of the offending vehicles uploaded onto the Internet as evidence for prosecution.

30. **Commissioner of Police** responded that when the Police received any report of alleged traffic offences with related photographs or video records being uploaded onto the Internet, the police officers would try their best to contact the person who uploaded the photographs or video records onto the Internet for assistance if the alleged traffic offences were serious ones. If the person who took the photographs or video records of the offending vehicle agreed to come forward and act as a witness, the photographs or video records could be used as evidence for prosecution. If the person who took the photographs or video records was not identified or refused to help, the related information would still be forwarded to the Regional Traffic Formations for reference.

31. In his letter of 16 May 2013 (in *Appendix 9*), **Secretary for Transport and Housing** stated that in order to effectively combat the illegal activities of red light jumping and speeding, TD had completed Phase 3 expansion programme of the red light camera system and Phase 2 expansion programme of the speed enforcement camera system in 2010 and 2011 respectively. To further facilitate effective enforcement by the Police, TD had just commenced Phase 4 expansion programme of the red light camera system, which was expected to be completed in 2015.

D. Measures to promote safer vehicle operation

Public light buses

32. According to paragraphs 4.4-4.6 of the Audit Report, the legal requirement for installing passenger seat belt only applies to public light buses ("PLBs") manufactured or registered on or after its effective date in August 2004. PLBs not fitted with the passenger seat belts but already in use before the effective date are exempted. To encourage the exempted PLBs to be retrofitted with passenger seat belts, the Administration has, since 2002, launched three incentive schemes to encourage owners of old diesel PLBs (amongst other diesel commercial vehicles) to replace their PLBs with more environmentally friendly models. Those replaced in or after August 2004 were fitted with passenger seat belts. In its investigation report published in December 2010, The Ombudsman's Office recommended the Administration to consider extending the passenger seat belt requirement to the exempted PLBs.

33. With reference to Figure 7 in paragraph 4.8 of the Audit Report, as at December 2012, 42% of the PLBs in operation were exempted from the seat belt requirement, as a result of which passengers of the PLBs not fitted with passenger seat belts were exposed to greater risk. The Committee asked what measures would be taken to rectify the undesirable situation.

34. **Commissioner for Transport** responded that:

- when the Administration amended the Road Traffic Ordinance for mandating provision of passenger seat belts on PLBs in 2004, the legislative intent was to require new PLBs registered after 1 August 2004 to be installed with passenger seat belts; and
- as at March 2013, there were 1 470 diesel PLBs. In his Policy Address of January 2013, the Chief Executive indicated that the Government would seek to phase out the heavily polluting pre-Euro and Euro I to III diesel commercial vehicles with greater financial incentives whilst putting in place more stringent regulatory measures. For those PLBs not fitted with passenger seat belts, the TD would make greater efforts to encourage owners concerned to participate in the upcoming incentive scheme for the early replacement of their vehicles with more environmentally friendly models fitted with passenger seat belts.

35. As reported in paragraph 4.12 of the Audit Report, as at 31 December 2012, there were 981 liquefied petroleum gas fuelled PLBs without passenger seat belts which were not covered by the new air pollution control measures announced in the 2013 Policy Address. The Committee asked whether consideration would be given to offering subsidy for installation of passenger seat belts on the exempted PLBs.

36. **Secretary for Transport and Housing** said that when the law on seat belts was passed, the clear understanding was that passenger seat belts would be required only on newly registered PLBs. The Administration had endeavoured to strike a balance between the public concern on safe vehicle operation and the strong views of the PLB trade in respect of the financial hardship brought about by the seat belt law. Whilst noting that the PLB trade would welcome the Government's subsidy on the retrofitting cost (about \$80,000 to \$100,000 for every PLB), he believed that for the proper management of public money and in line with the prudent approach, the Administration should accord appropriate priorities to various financial commitments.

37. The Committee noted from paragraph 4.16 of the Audit Report that the seat belt wearing by PLB passengers was less than satisfactory as reflected by the number of summonses issued against PLB passenger seat belt offence from 1 375 in 2007 to 1 515 in 2012. As reported in paragraph 4.17 of the Audit Report, 91% of the passengers on the 30 PLBs trips surveyed by Audit staff did not wear seat belts. The Committee queried whether sufficient enforcement and publicity efforts had been made to promote seat belt wearing of PLB passengers.

38. **Commissioner of Police** said that:

- since 2007, the Police carried out territory-wide operations two to three times a year and such operations would focus on education, publicity and enforcement;
- for the Police's special operations against PLB seat belt offence in 2011 and 2012, a total of 1 280 passengers were found not wearing seat belts on PLBs, of which 128 were issued warnings instead of summonses; and
- the Police would consider Audit's recommendation that consideration should be given to taking more effective actions to convey a clear message that the Government was taking the matter seriously.

39. **Commissioner for Transport** said that apart from announcement in the public interest ("API"), TD also distributed stickers to PLB operators for placing at the back of every seat in PLBs to remind passengers to wear seat belts.

40. In view of the number of PLBs exempted from the seat belt requirement and the unsatisfactory seat belt wearing situation, the Committee asked what improvement measures would be taken to promote safer operation of PLBs.

41. **Secretary for Transport and Housing** stated in his letter of 16 May 2013 (in Appendix 9) that:

- in April 2012, the Road Traffic Ordinance was amended with a view to deterring speeding by drivers of PLBs and enhancing their safe operation. The measures which took effect on 13 April 2012 included imposing a maximum speed limit for PLBs at 80 km/hr, mandating all PLBs to install speed limiters (and pre-set their maximum speed limit to 80 km/hr) and mandating display of PLB driver identity plates on PLBs by PLB drivers;
- since the commencement of the new legislation, the Police had conducted a number of territory-wide enforcement operations targeting PLBs to check, inter alia, if PLB drivers had committed speeding and whether PLBs were equipped with speed limiters as required;
- THB expected to submit to the Legislative Council within this year the legislative proposal to mandate the installation of electronic data recording

device (commonly known as black box) on newly registered PLBs, and to require applicants of PLB driving licences to attend a mandatory pre-service training course;

- TD would continue to work with the PLB trade and review from time to time the current measures to enhance the safe operation of PLBs;
- for those PLBs registered before 1 August 2004, TD would continue to encourage owners of exempted PLBs to retrofit their PLBs with passenger seat belts; and
- relevant Bureaux/Departments ("B/Ds") would also step up publicity efforts to change the attitude and behaviour of PLB passengers.

Franchised buses

42. With reference to paragraphs 4.45-4.46 of the Audit Report, the accident involvement rates for franchised buses (e.g. 379.8 per 1 000 vehicles in 2012) were consistently higher than those of PLBs (e.g. 245.6 per 1 000 vehicles in 2012) and taxis (e.g. 233.9 per 1 000 vehicles in 2012). Over the years, a number of measures had been put in place to enhance the safety operation of franchised buses. These measures included the imposition of a maximum speed of a franchised bus at 70 km/hr for roads with general speed limit of over 70 km/hr; annual health checks for bus drivers aged 50 or above; training of new bus drivers and incumbent drivers; periodic reporting of the implementation of the TD's guidelines on working hours of bus drivers; installation of speed limiters and black boxes on franchised buses; and other safety facilities. Against this background, the Committee enquired about the causes of traffic accidents involving franchised buses and the additional improvement measures that would be / had been taken.

43. **Commissioner for Transport** said at the hearing and elaborated in her letter of 16 May 2013 (in Appendix 7) that:

- the accident involvement rates for franchised bus comprised collision type and non-collision type accidents. Of the 2 217 franchised buses involved in road traffic accidents in 2012, 1 294 (58%) were non-collision type accidents and 923 (42%) were collision type accidents;
- the involvement rates of franchised bus in collision type accidents were comparable to that of all motor vehicles. The factors contributing to

occurrence of collision type accidents of franchised buses were similar to those of other vehicle types, except that there was much higher percentage of the factor "failing to ensure the safety of passenger";

- TD met with franchised bus operators on a regular basis to, inter alia, review the working hour arrangements of bus drivers as well as the bus schedule. If statistics on traffic accidents showed that the accidents were attributed to certain types of improper driving behaviour, TD would liaise with the bus operators to arrange refresher training for incumbent drivers;
- as franchised buses carried a large number of passengers including standing passengers, a significant proportion of road traffic accidents involving franchised buses would report injury of passengers even there was no collision. This type of accidents was classified as non-collision type accidents and typically involved passengers losing balance inside the bus compartment due to various reasons, such as passengers not holding the handrail tightly or falling down when boarding or alighting;
- TD was mindful of the high proportion of non-collision type accidents of franchised buses, and had taken effort jointly with the franchised bus operators to promote bus passenger safety through education and publicity programmes, such as APIs on television ("TV") and radio, on-bus TV broadcasting as well as display of "holding onto handrails" and "no standing on stairway" posters and sticker notices inside bus compartments;
- most of the franchised buses currently in service were equipped with some, if not all, of the features like low-floor (wheelchair-accessible), continuous railing, handrails at exit doors and priority seats for passengers in need. In addition, there were standard provisions on new buses for a safer bus journey including non-slippery bus floor material, high contrast step-edge, closing door buzzer and warning lamp at exits; and
- as far as franchised bus operators were concerned, they had the incentive to reduce traffic accidents since they would receive more customers' complaints, claims for casualties or fatalities arising from traffic accidents, and would have to pay higher premium for the insurance, etc. whenever their buses were involved in traffic accidents.

44. The Committee noted from paragraphs 4.45-4.46 of the Audit Report that between June and November 2012, there were three serious franchised bus traffic accidents in which the bus drivers concerned were reported to have lost consciousness at the times of the accidents. Whilst noting that franchised bus operators had health check programmes for their drivers aged 50 or above, the franchised bus operators were not required to submit the health check results to TD. According to Appendix B of the Audit Report, the Mainland and a number of overseas jurisdictions had stipulated in their laws more stringent health check requirements for taxi and bus drivers. The Committee asked whether consideration would be given to imposing more stringent health check requirements on bus and taxi drivers, drawing on overseas experience.

45. **Commissioner for Transport** said at the hearing and **Secretary for Transport and Housing** replied in his letter of 16 May 2013 (in Appendix 9) that:

- to further enhance the operational safety of franchised buses, TD was actively coordinating a review on the health check arrangements for bus drivers currently carried out by franchised bus operators;
- the Administration was also reviewing the age requirement for applicants to produce a medical examination certificate issued by a registered medical practitioner when applying for issuance or renewal of driving licence;
- without compromising the personal data privacy, the Administration was exploring measures that could address the problem arising from the need to obtain prior consent of drivers suspected to be suffering from impaired health for accessing their medical records; and
- all relevant government departments would continue to work closely in striving to ensure road safety.

Taxis

46. According to paragraph 4.40 of the Audit Report, the total number of speeding offences committed by taxi drivers had increased by 23% from 25 338 in 2007 to 31 258 in 2012. In terms of the number of speeding offences per 1 000 vehicles over the period from 2007 to 2012, the speeding problem of taxis was more serious than that of PLBs and franchised buses. The Committee asked whether

consideration would be given to introducing additional measures to enhance the safe operation of taxis, such as mandating the installation of speed limiters on taxis.

47. **Commissioner for Transport** responded that:

- because of its personalized service, taxi drivers would usually accede to passengers' request and drive slower;
- the maximum speed of PLBs was 80 km/hr whereas the maximum speed of taxis could be as high as 110 km/hr under the existing legislation. As such, the installation of speed limiters on taxis would not be as effective as that on PLBs;
- taxi drivers were already required to display their driver plates and install the taxi meters on the top of the driving panel. There was limited space on the top of the driving panel of a taxi for installation of a speed limiter and a speed display;
- in view of the above, the TD did not have a plan to mandate installation of speed limiters on taxis; and
- apart from enforcement efforts, the TD coordinated publicity and education programmes targeting taxi drivers, such as refresher training course on occupational safety and code of practice for road user groups, etc.

E. Accuracy of traffic accident data

48. The TD used the traffic accident data in the Transport Information System ("TIS") for formulation of road safety strategies, publicity/education programmes and on-going review of road safety legislation amongst other road safety initiatives. As revealed in paragraph 5.10 of the Audit Report, the TD found that out of 27 755 accidents which occurred between April 2011 and December 2012, the grid reference of 7 314 (26% of 27 755) cases of accident locations were inaccurate. Table 10 of paragraph 5.10 of the Audit Report showed that in 4 417 of the 7 314 cases, the distance between the accident locations based on the inaccurate and TD's amended grid references ranged from over 50 metres to over 1 000 metres. The Committee enquired about:

- the reason(s) for the inaccurate input of traffic accident data by the Police into its computerized database; and
- what measures would be taken to address the problem.

49. **Commissioner of Police** explained at the hearing and furnished further information in his letter of 16 May 2013 (in Appendix 8) that:

- the Traffic Operations and Management System ("TOMS") was a computerized case management database used by the Police to record traffic accident data. The TIS was used by TD to capture traffic accident data from TOMS for identifying locations of accident black spots and accident trends for in-depth analysis. After initial investigation of traffic accidents, data relating to the locations of accidents and their grid references, personal data of parties involved, information on vehicles involved, contributory factors of the accidents, etc. would be input by frontline police officers into TOMS and TIS respectively;
- the police officers could detect the grid references at the scene of the traffic accidents by using the portable Global Positioning System devices provided by the TD, or could obtain the grid references from the electronic mapping system of TIS. In the circumstances the grid references input by police officers were rejected by the system when the map of TIS had not been updated, police officers would have to use the grid references of a nearby location as a substitute. In a small number of cases, some errors were caused by inputting the Northing and Easting components of the grid references in the reverse order. In 2011 and 2012, the Police received monthly scanning reports from TD, on which 205 cases and 157 cases of inaccurate input of grid references in TIS were showed. It was not until March 2013 that the Police was given to understand that out of the 27 755 accidents which occurred between April 2011 and December 2012, TD found that grid references of 8 264 (i.e. 30% of 27 755) cases were inaccurate;
- different lists of traffic accident contributory factors were adopted by TOMS and TIS. The list of traffic accident contributory factors maintained in TIS was 90-item long whilst that of TOMS was 44-item long because the former had a more detailed coverage (including driver, vehicle, environmental and casualty factors) whereas the latter mainly covered driver factors; and

- regarding the inaccurate input of contributory factors, the Police believed that improvements to the TIS could enhance the accuracy of data input. At the same time, the Police would also reinforce the checking process when the traffic accident contributory factors input into TOMS and TIS were reviewed by supervisory officers.

50. **Mr TO Kam-biu, Deputy Commissioner for Transport (Planning and Technical Services)**, said that the Police was responsible for investigating traffic accidents and the investigation officers were required to keep investigation findings and results in individual physical files and to input accident data into TOMS. The TD used computer sorting of traffic accident data to help compile a list of accident black spots whilst the traffic accident locations were identified using a grid reference system. The accident black spots were then prioritized for conducting investigation with a view to devising preventive and remedial measures. The TD had since 2008 carried out selective checks on grid references input by the Police by cross-referencing to the description of the locations input by the Police. The TD would work in tandem with the Police to rectify any problems with the grid reference system and devise appropriate remedial and improvement measures to enhance the accuracy of traffic accident data.

F. Publicity and education programmes

51. According to paragraphs 6.2-6.4 of the Audit Report, the RSC organizes publicity and education programmes through its Road Safety Campaign Committee ("RSCC") to disseminate road safety messages and educate different road user groups. These programmes are primarily financed by government provision. In 2011-2012, RSC received \$4.7 million funding from the THB and \$260,000 from various commercial sponsors of its road safety activities. Most of the road safety publicity campaigns are sustained throughout the year and employ a variety of publicity and advertising means. According to a survey commissioned by the RSC in 2005, TV topped the means through which road safety messages were effectively received by respondents. With the assistance of Information Services Department ("ISD"), the RSC produces one to three TV APIs each year to disseminate road safety messages.

Case 1

52. The Committee noted from paragraph 6.5 of the Audit Report that an API for combating drug driving had been broadcast for two months from late January 2011 to early April 2011 when a local magazine alleged that the API had infringed the

copyrights of a United Kingdom ("UK") anti-drug driving video. After viewing the UK video, the ISD ceased broadcasting the API, sought explanation from the Contractor on the similarities between the two videos and gathered more background information from the copyright owner of the UK video. Whilst the Contractor replied that the creative concept was his own, the UK copyright owner informed the ISD that his lawyer believed that there was a clear infringement of his copyrights. In March 2012, the ISD obtained an offer from the UK copyright owner to grant a licence for the broadcast of the API subject to the charging of a licence fee. In April 2012, after obtaining legal advice, it was decided that no legal action would be taken against the Contractor. Two APIs had subsequently been produced to combat drug driving and had been on air since 1 March 2012. In this connection, the Committee enquired about the role and responsibility of the ISD in the production of APIs, and how the production of APIs was monitored.

53. **Mr Michael WONG, Director of Information Services**, said at the hearing and stated in his letter of 16 May 2013 (in *Appendix 10*) that:

- APIs were owned by the B/Ds that commissioned and paid for them. The two APIs as referred to in paragraph 6.5 of the Audit Report were technically "owned" by the THB, which commissioned the production of the two APIs on behalf of the RSC and signed the contracts;
- the ISD acted as an agent for the RSC in the production of its APIs. All action taken by ISD in regard to the two APIs was discussed with, and agreed by, the RSC or its Secretariat. The ISD could not act and did not act on its own, and must act on the advice and decisions of the RSC or as requested by the RSC Secretariat;
- responsibility for the theme, messages, content, creative approach and storyline lied with the owner B/Ds; and
- the Local Promotions Sub-division of ISD's Publicity and Promotions Division, in close consultation with the client B/Ds, managed the approval process as well as the liaison with the contractors on production logistics. The process was explained in the "Good Practice Guide on Publicity Campaigns".

54. As stated in paragraph 6.6 of the Audit Report, the problem in the API contents in Case 1 not only frustrated the Government's efforts to disseminate road safety messages to the public but also affected the image of the Government. Audit

observed that there were clear provisions in the API quotation and contract documents about a contractor's obligations on the copyright issues and his liability to indemnify the Government against all claims. The Committee asked about:

- the actions taken by the ISD to seek compensation from the Contractor for not honouring his contractual obligation to provide material that was free of infringement of copyright claims, including what had transpired in the course of such actions;
- the reason(s) for the decision of the ISD not to take legal action against the Contractor;
- the reason(s) for not offering the UK copyright owner a licence fee in order to continue with the broadcast of the API on anti-drug driving; and
- what improvements had been made by the ISD to the procedure for producing APIs to prevent the infringement of copyright in an API from recurring.

55. **Director of Information Services** said at the hearing and elaborated in his letter of 16 May 2013 (in Appendix 10) that:

- legal advice was sought from the Intellectual Property Department ("IPD") and Department of Justice ("DoJ") on this matter. Although IPD rendered advice based on its analysis of the API content, it was inconclusive. IPD stated that, ultimately, it was for the courts to decide whether a copyright breach had occurred. DoJ's advice was that unless the UK copyright owner took action for breach of copyright, the RSC was not in a position to make a claim against the Hong Kong Contractor for breach of copyright or non-compliance of its contractual obligations. DoJ also stated that the Hong Kong Contractor was under no obligation to answer any questions put to it by ISD;
- ISD was not in a position to decide whether or not to take legal action. Such a decision rested with the RSC in conjunction with THB, which signed the contract. As could be seen in the "Information Note on the Anti-Drug Driving API", legal advice had been sought from IPD and DoJ on this matter, and the substance of the advice from IPD and DoJ had been provided to the RSC for its consideration;

- the main concern of ISD and RSC was always to ensure that there was no breach of intellectual property rights ("IPR") and to protect the Government's reputation in this regard. The Government's commitment to protecting IPR, as well as its action to do so, took precedence over any contractual dispute B/Ds might have with the Contractor that produced the API. This was because the potential damage to Hong Kong's reputation as a jurisdiction committed to protecting IPR far outweighed any loss, financial or otherwise, the Government and RSC might have suffered as a result of the curtailed broadcast period of the API. Given the media attention at that time, the continued broadcast of the API, which bore resemblance to the UK video, was not in the best interest of the Government or RSC whilst questions remained over the IPR integrity of the Hong Kong production. The UK copyright owner had informed ISD on 8 May 2013 that it would not pursue action against the Hong Kong Contractor; and
- Case 1 was a rare occurrence and the first of its kind in the past 10 years during which time more than 1 700 TV APIs had been produced. Following the discovery of possible copyright issue with the anti-drug driving API, ISD had implemented a number of operational measures to help avert the recurrence of similar incidents in future. These measures included:
 - (a) contractors would be specifically asked to confirm originality of their creative concepts during the presentation stage of their creative ideas;
 - (b) internet-based search on successful creative concepts would be conducted to look for similar ideas, executions, storylines etc. in Hong Kong or overseas, and the result of which would be documented; and
 - (c) a Production Checklist would be kept at float of each API file to ensure all necessary procedures were completed and documented.

56. **Secretary for Transport and Housing** said that although the shelving of the API in Case 1 had undermined the effectiveness of the publicity campaign on combating drug driving at that time, he considered it a responsible act of the Government, having regard to its negative impact on the image of the Government in protecting the IPR. In the light of the experience acquired from the suspected infringement of copyright issue in Case 1, the ISD had stepped up measures to avoid

the recurrence of similar incidents by carrying out searches over the Internet for road safety TV APIs under planning to see if any TV commercials using similar creative execution had been produced elsewhere in the world and whether they might involve any copyright infringement issues. During presentations of the contractors' creative ideas, the ISD also made a special point to ask contractors to confirm that their ideas were original and not subject to any copyright issues. In addition, the Government would explore the feasibility of arranging performance-based payments to contractors to encourage their compliance with the relevant copyright requirement.

Case 2

57. The Committee noted from paragraphs 6.5-6.6 of the Audit Report that in July 2012, the broadcast of an API for promoting cyclists' safety on public roads was temporarily withheld since the TD and the RSC secretariat received complaints and media enquiry concerning the improperly fitted bicycle featured in the API. Prior to the shooting, the Contractor had invited the ISD by e-mail to approve the bicycle and vehicles to be used for the shooting, attaching the side view photograph of the bicycle. After consulting the TD and the Police, the ISD advised the Contractor that the proposed bicycle and vehicles were acceptable and that there would not be any government officers attending the shooting. The bicycle used in the API production was not fitted with a bell and a rear reflector (contrary to the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A)). However, the omission was not detected when the API rough cut and final cut were circulated to the TD and the Police (amongst other RSCC members) for comments in October 2011 and January 2012 respectively. According to the ISD's Good Practice Guide on Publicity Campaigns, relevant B/Ds are to attend the shooting session of TV APIs. However, no government officers attended the shooting of the API on safe cycling. The Committee asked what improvements had been made by ISD to the procedure for producing APIs to prevent the technical issue with the API on safe cycling from recurring.

58. **Director of Information Services** said at the hearing and stated in his letter of 16 May 2013 (in Appendix 10) that:

- the "Good Practice Guide on Publicity Campaigns" served as a general information note to B/Ds on the mounting of publicity campaigns, including the production of APIs. B/Ds were encouraged to follow the guidelines therein as far as practicable;

- in the light of the technical issue with the API on safe cycling, the Good Practice Guide on Publicity Campaigns was being updated to include considerably more information on a number of publicity matters, including the production of APIs; and
- an additional category had been added to the Production Checklist for each API to ensure a technical expert from the relevant B/Ds was present for location filming when necessary. Special effort would also be made to ensure that the API storyboard and script were cleared by relevant B/Ds prior to the shooting. The ISD would refuse to proceed with the shooting session where appropriate if these conditions were not met. Where circumstances warranted, ISD might reschedule location filming to ensure the presence of an on-site technical expert from the relevant B/Ds.

59. **Commissioner for Transport** expressed regret that no technical experts from the TD were present at the filming session of the API on safe cycling. The fact that the filming had been proceeded with in the absence of the relevant technical experts was undesirable. As regards the non-compliance of the bicycle featured in the API with the Road Traffic (Construction and Maintenance of Vehicles) Regulations, she said that the non-compliance could have been detected early if due regard had been given by TD's colleagues during the checking of the rough and final cuts of the cycling safety API. In the light of Case 2, the TD's technical expert would in future be present at the filming sessions of the APIs on road safety and give due regard to the checking of the rough and final cuts of the APIs to ensure the compliance of the content with the statutory requirements.

60. **Commissioner of Police** responded that it was mandatory under the established guidelines of the Police for the relevant technical experts to be present at the filming sessions of the APIs if the APIs were under the purview of and commissioned by the Police. It was however not the case for the API on safe cycling which was commissioned by the THB, on behalf of the RSC. Accordingly, the Police had not deviated from the aforesaid principle of its established guidelines. In addition, for those APIs commissioned by an advisory/consultative body of the Government with concerted effort of B/Ds, it was not uncommon that not all subject officers of the relevant B/Ds would be present at each filming session of the APIs, having regard to the resource implications and cost-effectiveness. Notwithstanding the above, in response to Audit's recommendation, **Commissioner of Police** agreed that the Police would in future ensure the presence of the relevant technical experts at the filming sessions of the APIs on road safety and the approval of its storyline, etc.

61. **Secretary for Transport and Housing** remarked that:

- for Case 2, there was room for improvement in terms of the coordination and accountability of B/Ds with respect to publicity campaigns on safe cycling;
- acting as a liaison agent, the ISD was responsible for managing the approval process in the production of APIs and liaising with contractors on the production logistics; and
- as experts on the statutory requirements of bicycle safety fittings and the related enforcement, the TD and the Police were responsible for monitoring the content, the message and the presentation of the cycling safety API and ensuring the compliance of the bicycle featured in the API with the statutory requirements.

G. Conclusions and recommendations

62. The Committee:

Overall comments

- believes that, as human lives are invaluable, the Administration should strive to enhance road safety to prevent road traffic accidents;
- acknowledges that the Secretary for Transport and Housing ("STH") has agreed that the Transport and Housing Bureau, the Transport Department ("TD") and the Hong Kong Police Force ("Police") will work in tandem to analyze the root causes of and trend in traffic accidents in order to come up with more effective measures to further reduce traffic fatalities and injuries. The scope of work will comprise areas such as:
 - (a) health check and working hour arrangements for franchised bus drivers;
 - (b) installation of road safety equipment on road-based public transport modes, such as retrofitting exempted public light buses ("PLBs") with passenger seat belts;

- (c) education and publicity efforts on promoting safety awareness, such as the wearing of passenger seat belts on PLBs; and
 - (d) road design and driving behaviour;
- notes that the STH has undertaken to strive to enhance road safety through legislation, enforcement, improvement on road facilities as well as publicity and education with a view to achieving the road safety vision of "Zero Accidents on the Road, Hong Kong's Goal";
- expresses grave dismay and alarm that the Administration has been complacent in the administration of road safety measures and has failed to use the resources efficiently to reduce traffic accidents, as evidenced by the following:
- (a) enforcement of the three-tier penalty legislation against drink driving could not be carried out effectively as 18 of the 42 police stations were still not equipped with evidential breath test devices as at January 2013;
 - (b) 42% of the random breath tests were conducted during daytime (between 6:01 am and 6:00 pm) from February 2009 to December 2012 despite the fact that only 24% of drink driving related accidents and 10% of drink driving related arrests occurred during daytime;
 - (c) health check arrangements for franchised bus drivers are less stringent than those of other jurisdictions despite the fact that the accident involvement rates for franchised buses (e.g. 379.8 per 1 000 vehicles in 2012) were consistently the highest among those for the public transport modes as reported in the Audit Report (e.g. 245.6 per 1 000 PLBs and 233.9 per 1 000 taxis in 2012) from 2007 to 2012;
 - (d) inadequate effort has been made by the TD to rectify the situation that 42% of the PLBs in operation were exempted from the statutory passenger seat belt requirement as at December 2012 even though the accident involvement rates for PLBs (e.g. 245.6 per 1 000 vehicles in 2012) were consistently higher than the average for all motor vehicles (e.g. 33.1 per 1 000 vehicles in 2012) from 2007 to 2012;

- (e) no improvement measures, such as installation of speed limiters on taxis, have been considered for implementation to tackle the serious speeding problem of taxis;
 - (f) the TD only commenced studying the feasibility of using an average speed camera system in Hong Kong in 2007, and planned to launch a trial of the system in 2013-2014 despite the fact that such a system has been used in other jurisdictions since 1999; and
 - (g) the planned publicity campaign against drug driving has been weakened because an announcement in the public interest ("API") on drug driving was shelved in 2011 due to suspected copyright infringement;
- acknowledges that:
- (a) the Commissioner of Police has undertaken to:
 - (i) expedite the installation of evidential breath test devices in 18 of 42 police stations, having regard to the latest technology and available resources of the Police; and
 - (ii) subject to availability of resources, consider conducting more random breath tests during nighttime when both drink driving related accidents and arrests were on the high side; and
 - (b) the Commissioner for Transport has undertaken to seek funding from the Finance Committee ("FC") of the Legislative Council ("LegCo") for launching a trial of the average speed camera system in 2013-2014;
- urges the Commissioner of Police to report to the Panel on Transport of LegCo on the timetable to install evidential breath test devices in 18 of 42 police stations;
- expresses serious dismay about the lack of coordination and accountability among relevant bureaux/departments ("B/Ds") in the implementation of road safety measures, as evidenced by the following:
- (a) the broadcast of an API for promoting safe cycling was temporarily withheld in 2012 as the bicycle featured in the API was not fitted with a bell and a rear reflector required by the law due to the absence

of technical experts from relevant B/Ds during the shooting of the API; and

- (b) the TD has to spend extra time and resources to rectify the inaccurate traffic accident data input by the Police;
- acknowledges that:
- (a) the Director of Information Services has undertaken to review the Good Practice Guide on Publicity Campaigns with a view to providing more guidance for B/Ds in the production of APIs and has updated the production checklist to provide sufficient safeguards to ensure the compliance by respective B/Ds with the requirement of the Good Practice Guide on Publicity Campaigns;
 - (b) the Commissioner for Transport and the Commissioner of Police have undertaken to comply with the requirement of the Good Practice Guide on Publicity Campaigns concerning the presence of appropriate experts during the shooting session of APIs; and
 - (c) the Commissioner of Police has undertaken to, in collaboration with the TD, rectify the persistent problem of inaccurate grid references for traffic accident locations input by the Police into the Transport Information System ("TIS");

Specific comments

Measures to tackle drink driving

- expresses grave dismay and alarm that:
- (a) for the four years since the commencement of the random breath test operations in February 2009, the Police had not maintained statistics of the test operations. As a result, the information provided to the Panel on Transport of LegCo in January 2011, i.e. 60% of the test operations were scheduled between 9:00 pm and 6:00 am, was based on a general observation instead of verified data;
 - (b) as revealed by the random breath test data from February 2009 to December 2012, 42% of the tests were carried out by the Police

during daytime when both drink driving related accidents and arrests were on the low side, i.e. 24% and 10% respectively;

- (c) from January to October 2012, 182 drivers (24%) of the 744 drink driving arrest cases were released and 215 drivers (29% of 744 cases) were charged with a lighter offence, because their alcohol concentrations had dropped to lower levels by the time the evidential breath tests were taken. As a result, the deterrent effect of the three-tier penalty system was undermined; and
 - (d) there were cases of delay in conducting evidential breath tests because some police stations where the drink driving suspects were taken to for reporting of arrests were not equipped with a test device and there were breakdowns of the test devices in some cases;
- notes that the Commissioner of Police has agreed with the audit recommendations in paragraphs 2.13 and 2.25 of the Audit Report;
 - recommends the Commissioner of Police to work in tandem with the Department of Justice and respective scientists with a view to improving evidential breath test procedures in adducing evidence to prove drink driving offences;

Measures to tackle speeding and red light jumping

- expresses grave dismay and alarm that:
 - (a) the deterrent effect of the present speed enforcement camera system is localised as some drivers may increase speed after passing the system. Whilst the Police's records showed that an average speed camera system has been used in other jurisdictions since 1999 to influence driver behaviour over a greater distance, the TD only commenced studying the feasibility of using the system in Hong Kong in 2007, and planned to seek funding from FC for launching a trial of the system in 2013-2014;
 - (b) 2 109 (9%) of the 22 871 red light jumping cases detected by the red light camera system from October to December 2012 could not be pursued because the images of the offending vehicles were blocked by other vehicles. Sanctions could not be imposed on the offending drivers to deter their dangerous driving behaviour; and

- (c) the present enforcement camera systems only show the offending vehicles' identity but not that of the offending drivers. There were cases that the registered owners of the vehicles failed to identify the offending drivers;
- notes that:
 - (a) the Commissioner for Transport has agreed with the audit recommendations in paragraph 3.18 of the Audit Report; and
 - (b) the Commissioner of Police has agreed with the audit recommendations in paragraphs 3.18 and 3.23 of the Audit Report;
- acknowledges that the Commissioner for Transport has undertaken to seek funding from FC for launching a trial of the average speed camera system in 2013-2014;

Measures to promote safer vehicle operation

- expresses grave dismay and alarm that:
 - (a) as at 31 December 2012, 42% (1 815) of the 4 350 PLBs were not fitted with passenger seat belts. Given the higher accident involvement rates for PLBs than the average for all motor vehicles, PLB passengers face a high safety risk;
 - (b) despite the publicity efforts and the Police's enforcement actions, the number of summonses issued against PLB passenger seat belt offence from 2007 to 2012 reflected that there was little improvement in the seat belt wearing rate. The Audit Commission's survey of 30 PLB trips in February 2013 also showed that 91% of the passengers did not wear seat belts;
 - (c) the speeding problem of taxis (measured in terms of number of speeding offences per 1 000 vehicles) was more serious than that of PLBs and franchised buses, and had deteriorated significantly in 2012; and
 - (d) the Mainland and a number of overseas countries have stipulated in their laws more stringent health check requirements for taxi and bus drivers than the existing legislative requirements in Hong Kong which cover all drivers;

- notes that:
 - (a) the Commissioner for Transport has agreed with the audit recommendations in paragraphs 4.31, 4.34, 4.42 and 4.52 of the Audit Report; and
 - (b) the Commissioner of Police has agreed with the audit recommendations in paragraphs 4.32 and 4.33 of the Audit Report;
- recommends the Commissioner for Transport to explore the feasibility of mandating taxis to install speed limiters;

Accuracy of traffic accident data

- expresses great dissatisfaction that:
 - (a) the problem of inaccurate grid references for traffic accident locations input into the TD's TIS as identified in the 2006 audit review still persisted. Of the 27 755 accidents which occurred from April 2011 to December 2012, the TD's checking up to end of December 2012 revealed that the grid references of 7 314 (26%) cases input by the Police were inaccurate. In 4 417 of these 7 314 cases, the physical distances between the accident locations according to the inaccurate and the TD's amended grid references were over 50 metres;
 - (b) the TD has to spend extra time and resources to rectify the problem of inaccurate input of grid references. The timeliness of accident black spot data could be compromised; and
 - (c) the problem of inaccurate input of traffic accident contributory factors into the TIS as identified in the 1998 and 2006 audit reviews still persisted. In the 2013 audit review, sample check revealed that 13% of the input factors were still inaccurate;
- notes that:
 - (a) the Commissioner of Police has agreed with the audit recommendations in paragraphs 5.14 and 5.22 of the Audit Report; and

- (b) the Commissioner for Transport has agreed with the audit recommendations in paragraph 5.14(b) of the Audit Report;

Publicity and education programmes

- expresses serious dismay that:
 - (a) the broadcast of an API for combating drug driving was shelved in 2011 after having been on air for a period of two months because of suspected copyright infringement;
 - (b) whether the shelved API for combating drug driving had infringed the copyrights of the United Kingdom ("UK") anti-drug driving video had not been ascertained;
 - (c) no API for combating drug driving had been broadcast between early April 2011 and 1 March 2012; and
 - (d) the broadcast of another API for promoting safe cycling was temporarily withheld in 2012 because the bicycle featured in the API was not fitted with a bell and a rear reflector, contrary to the law;
- notes that:
 - (a) the Director of Information Services has agreed with the audit recommendations in paragraph 6.7 of the Audit Report;
 - (b) the Commissioner of Police has agreed with the audit recommendations in paragraphs 6.8 and 6.17 of the Audit Report; and
 - (c) the Director of Information Services had been informed by the copyright owner of the UK anti-drug driving video that the copyright owner would not pursue action against the contractor for the shelved API;
- acknowledges that:
 - (a) the Director of Information Services has undertaken to review the Good Practice Guide on Publicity Campaigns with a view to providing more guidance for B/Ds in the production of APIs and has updated the production checklist to provide sufficient

safeguards to ensure the compliance by respective B/Ds with the requirement of the Good Practice Guide on Publicity Campaigns; and

- (b) the Commissioner for Transport and the Commissioner of Police have undertaken to comply with the requirement of the Good Practice Guide on Publicity Campaigns concerning the presence of appropriate experts during the shooting session of APIs; and

Follow-up action

- wishes to be kept informed of the progress made in implementing the various audit recommendations.