

立法會
Legislative Council

LC Paper No. CB(1)1791/13-14(02)

Ref. : CB1/PL/TP

Panel on Transport

Meeting on 18 July 2014

**Background brief on illegal carriage of passengers for hire or reward
by light goods vehicles**

Purpose

This paper provides background information on illegal carriage of passengers for hire or reward by light goods vehicles ("LGVs"). It also summarizes the major views and concerns expressed by members of the Panel on Transport ("the Panel") during previous discussions relevant to this subject.

Background

2. According to the information provided by the Administration¹, taxis, as an alternative to private cars, provide a personal point-to-point passenger transport service. In addition to passengers, taxis can carry personal effects under the Road Traffic Ordinance ("RTO") (Cap. 374), i.e., the property of the driver of a motor vehicle or any passenger carried on board, and personal hand baggage under the Road Traffic (Public Service Vehicles) Regulations (Cap. 374D) ("the Regulations") for reward. No taxi can otherwise carry goods for reward. Also, taxi fares are governed by the Regulations and are specified in Schedule 5 to the Regulations. It is illegal for a person to attract or endeavour to attract any person in any manner in order to induce the latter to make use of the taxi (or known as "touting") under the Regulations.

3. According to the Transport Department², currently there are 18 138 taxis in Hong Kong, of which 15 250 are urban taxis (red), 2 838 are New

¹ Source: The Administration's paper on "Operation of Taxis and Light Goods Vehicles" in November 2006 [LC Paper No. CB(1)296/06-07(03)]

² Source: Transport Department's website
(http://www.td.gov.hk/en/transport_in_hong_kong/public_transport/taxi/index.html)

Territories taxis (green) and 50 are Lantau taxis (blue). The average daily taxi patronage is about 1 million.

4. In accordance with RTO, public light bus ("PLB") means a light bus which is used or intended for use for hire or reward. According to the Transport Department³, PLBs are minibuses with not more than 16 seats. Their number is fixed at a maximum of 4 350. Some PLBs are used on scheduled services (green minibuses) and others on non-scheduled services (red minibuses). Red minibuses are free to operate anywhere, except where special prohibitions apply, without control over routes or fares, whereas green minibuses operate on fixed routes at fixed fares. There were 1 238 red minibuses in February 2014. Besides, there were 70 green minibuses routes on Hong Kong Island, 80 in Kowloon and 195 in the New Territories, employing a total of 3 112 vehicles. In 2013, green minibuses carried about 1 512 000 passengers daily, and red minibuses carried about 348 000 passengers daily.

5. A van-type LGV refers to a goods vehicle having permitted gross vehicle weight not exceeding 5.5 tonnes and its maximum passenger seating capacity is five. The role of a goods vehicle, including van-type LGV, is primarily for carriage of goods. The use of van-type LGV is regulated by RTO. According to section 52 of RTO, it is legal for van-type LGVs to carry goods for hire and reward and the fare charged for carriage of goods is not regulated. However, it is an offence to use van-type LGVs for carrying passengers for hire and reward. It is also illegal for a person to solicit or attempt to solicit any person for hire or reward to travel in a van-type LGV. Back in 2006, the taxi trade has pointed out that some van-type LGVs have been engaging in illegal operation at the Hong Kong International Airport ("HKIA") which have adversely affected their businesses.

6. According to the Transport Department⁴, as at end-December 2012, there are 76 265 registered LGVs in Hong Kong, which is more than four times the number of taxis. The number of PLB, i.e. 4 350, is relatively small compared to that of LGVs and taxis.

7. The Public Policy Research Institute of the Hong Kong Polytechnic University carried out a taxi services (market competition) policy review from 15 November 2005 to 14 February 2006 to review, inter alia, the situation of the market intrusion of the van-type LGVs into the taxi trade. The report was released in February 2006 and submitted to the Panel for follow-up. According to the findings of the report, many van-type LGVs

³ Source: Transport Department's website
(http://www.td.gov.hk/en/transport_in_hong_kong/public_transport/minibuses/index.html)

⁴ Source: Transport Department's website (http://www.td.gov.hk/mini_site/atd/2013/en/section3_2.html)

were not used for the carriage of goods but merely passengers and their luggage to HKIA while some van-type LGVs were simply carrying passengers to travel between different places. Among the recommendations put forward in the report to rectify the situation, there are proposals to amend RTO and its subsidiary legislation to better confine the operation of van-type LGVs to carriage of goods for hire or reward, such as by reducing their maximum passenger seating capacity from five to two, and by clearly defining the terms "personal effects" and "goods" in RTO ("the proposed legislative amendments"). These proposals have aroused heated debate among the LGV and taxi trades.

Discussion by the Panel

8. In the light of the findings and recommendations of the above report, which are highlighted in **Appendix I**, the Panel reviewed with the Administration and the taxi and LGV trades at the regular Panel meeting on 24 March 2006 the roles and functions of taxis and van-type LGVs in the transport services sector, the regulatory framework and licensing system for van-type LGVs, the enforcement procedures and measures for tackling unauthorized operation of van-type LGVs, etc. A total of 39 deputations from the two trades attended the meeting to express their views.

Views of the Administration

9. At the 24 March 2006 meeting, the Administration reported that various measures as highlighted in **Appendix II** were presently taken to combat against illegal van-type LGVs and taxis operations at HKIA. It further explained that van-type LGVs and taxis each had a distinctive role. Problems had emerged mainly because certain van-type LGVs were illegally operating outside their scope of operations, and were carrying passengers for hire or reward.

10. On whether a van-type LGV was conducting business legally, the Administration had advised that it was not merely determined by the type of "goods" it carried but also the specific facts and details of the trip concerned. For example, if a van-type LGV was carrying some luggage, and the owner of the luggage was also travelling on it to the same destination although he or she could make use of other modes of public transport, there might be reasonable grounds to suspect that the situation might amount to carriage of passengers for hire or reward. This was because the owner of the luggage also had the need for carriage, so that the operator of the LGV concerned might not be able to argue that the journey was purely for carriage of goods.

11. Regarding the proposed legislative amendments, the Government's stance was that due to their impact on the existing scope of operations of the LGV and taxi trades as well as on the market they were allowed to serve, a prudent approach would be taken to consider the concerns of the trades and hold further discussions with them before examining the need of the proposed legislative amendments.

Views of the trades

12. The taxi trade in general found the measures highlighted in **Appendix II** inadequate. They pointed out that the definition of goods in respect of which van-type LGVs could carry under the law and the role of van-type LGVs in the transport service sector were unclear. They therefore indicated support for the introduction of the proposed legislative amendments to facilitate enforcement against illegal operations of van-type LGV service. Some members of the taxi trade also took the view that the Government should implement measures to tackle the rampant illegal operation of van-type LGVs at HKIA, such as by designating specific areas at HKIA for van-type LGVs to load and unload their goods, explaining clearly to the general public that taxis were used for the carriage of passengers while van-type LGVs for the carriage of goods, etc. They also pointed out that it was unfair to allow LGV operators to intrude into the scope of operations of taxi operators because firstly, the latter had to bear very high capital costs in terms of high taxi license premium, while the former did not have to make such investments. Secondly, taxi drivers were required to pass through specific written examination after getting their driving licences for three years. Some taxi drivers and operators attending the meeting also took the opportunity to complain that certain Government departments hired van-type LGVs to transport their staff in the course of carrying out duties.

13. While conceding that there were illegal operations among some van-type LGV drivers, the LGV trade urged the Government to step up enforcement actions against the drivers concerned only, and objected to the proposed legislative amendments on grounds that any change in the legislation would affect all van-type LGV operators and was not warranted yet. The LGV trade also pointed out that the difficult business environment of taxis might be attributable to the high taxi licence premium. It was also partly attributed to the discounts offered by some taxi drivers, and the taxi trade should target its action against the malpractice of taxi drivers but not van-type LGV operators. They further stressed that van-type LGV had its own role in the transport services sector. For example, some small families would need to use van-type LGVs, instead of taxis, for specific activities such as household removal. Because of the

very competitive and efficient services rendered by LGVs to small and medium enterprises, LGV operation had also contributed significantly to the logistics development in Hong Kong. In consideration of the above role and functions of van-type LGVs, the LGV trade expressed strong opposition to the following two proposals –

- (a) The proposal to reduce the maximum passenger seating capacity of van-type LGVs because this would reduce their flexibility and limit the choice of passengers, especially as some van-type LGV owners also deployed their vehicles for personal use; and
- (b) The proposal to strictly enforce the specification that the minimum weight of goods that could be carried by van-type LGVs should be 200kg. The proposal was not practical as some goods such as props which were less than 200kg could not be transported by taxis due to their size and bulkiness.

Views of members

14. Members in general found the conflict between the taxi trade and the van-type LGV trade regretful. They expressed concern about inadequate enforcement and prosecution against illegal operation of van-type LGVs at HKIA, and urged the Administration to address the crux of the problem, which in their view was that the Police had difficulty in initiating prosecution against van-type LGVs for carrying passengers for hire and reward because they could not ascertain whether the reward was for the carriage of goods or passengers, when both were being transported by a LGV. Moreover, because of the lack of a clear definition of "goods", some operators of van-type LGVs also had the impression that they could legitimately carry luggage as well as its owner to and from HKIA.

15. Certain members also opined that the above conflict might have been caused by Government's transport policy, which in their view was seriously tilted in favour of rail transport, leaving very little room for other modes of public transport to operate. These members urged the Government to review its transport policy to ensure the viability of different transport modes. In relation to the taxi trade's complaint that Government departments also used the service of van-type LGVs for carriage of passengers, some members also called upon the Administration to urge all Government departments not to engage illegal transport service in future.

16. Concluding the discussion, the Panel agreed that to combat and

control illegal transport services at HKIA, the Administration and the Airport Authority should step up enforcement and examine the proposal for restricting van-type LGVs' activities within HKIA's goods loading and unloading area only. The Panel also asked the Administration to take the following actions –

- (a) To examine and report back in October 2006 the need for and feasibility of introducing the proposed legislative amendments. The requested report should include relevant enforcement figures; and
- (b) To provide details of its plan to clarify grey areas of RTO and enhance publicity to let the transport trades and the general public better understand that van-type LGVs could only be used for carriage of goods but not passengers for hire and reward.

17. After considering the trades' views, the Administration briefed the Panel on the details of the proposed measures on 24 November 2006. In accordance with the legislative procedures, the Airport Authority introduced amendments to the prohibited and restricted zones at the airport in May 2007 by notice in the Gazette in order to prohibit taxis and LGVs from using Car Parks No. 1, 2 and 4 at the airport. Relevant amendments were submitted to the Legislative Council on 23 May 2007 and the new measures came into effect on 14 July 2007.

Latest development

18. Recently, representatives of taxi and PLB trades have petitioned against LGVs' illegal carriage of passengers for hire or reward through various means, such as making use of mobile apps and offering discounts. They request the Administration to combat those illegal activities and make legislative amendments when necessary because the problem seriously affects the livelihood of taxi and PLB trades. In this connection, the Panel requests the Administration to brief members on illegal carriage of passengers for hire or reward by LGVs at the coming meeting to be held on 18 July 2014.

Relevant papers

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

Council Business Division 1
Legislative Council Secretariat
14 July 2014

Findings and recommendations of the policy review conducted by the Public Policy Research Institute of the Hong Kong Polytechnic University on taxi services (market competition)

Findings

The review revealed the following facts:

- a) The taxi passenger carriage business in general has been slowing down and getting more difficult in the last four years; the situation of taxi in New Territories is worst. The taxis have to wait longer to get a passenger while a passenger waits less to ride on a taxi at taxi stands. The taxi in Lantau is however an exception, enjoying a growing business. The Lantau taxi waits a lot shorter time to get a passenger.
- b) Van-type light goods vehicle ("LGV") is an obvious competitor of the taxi. Companies advertise their transportation services (passenger with or without goods) on vehicle bodies and many web-sites. The number of licensed LGVs has been rising in the last few months in 2005. The fleet of LGV is nearly four times larger than that of the taxi.
- c) Over 99% of the van-type LGVs running in the urban areas or operating in roadside during loading/unloading carry two or less than two passengers in the front seat. Some 43% of the van-type LGVs performing roadside loading/unloading activities have only the front seat in the vehicles.
- d) The carrying capacity of the taxi can cater for 95% of the transport services demands of travelling passengers at the airport. Only less than 5% of the passengers who either travel in groups larger than five or carry goods/luggage more than ten pieces that the taxi cannot cope with.
- e) A significant number and proportion of van-type LGVs carry more than two passengers at the airport, indicating that they may carry passengers for rewards which may not be permitted in law.
- f) There are significant numbers and proportions of 5-seater private car, 7-seater private car and van-type LGVs probably running passenger carriage business at the airport. Around one in five of these vehicles appeared more than once in one of the survey days.

- g) The fare of the taxi services is competitive for trips less than HK\$100 but gradually loses its competitiveness as the trips get more expensive or longer compared to the fare quotations from the van companies. The fare levels quoted by the van companies are more negotiable as the fare gets more expensive.
- h) Taxi services and fare levels are governed by dedicated offices in major world cities such as New York and London. The carrying capacity of taxi is not necessarily five and many major world cities and countries do allow a higher carrying capacity. There may be different types of taxi with larger capacity to serve passengers at the airport.
- i) It is also common to have licensed hire vehicles to take passengers to and from the airport. These licensed hire vehicles may have a much higher carrying capacity, say 20 for New York. However, these vehicles are not allowed to accept hails on the street. Passengers have to pre-book these vehicles from licensed agencies.
- j) The Chapter 374 Road Traffic Ordinance of the Hong Kong law regulates all passenger carriage vehicles. Apart from taxi, it allows licensed hire vehicles to carry passengers. LGVs are allowed to carry up to five passengers. However, all LGVs are not allowed to carry passengers for rewards. The current practices of the van-type LGVs, in particular, advertising, soliciting and charging passengers without goods are likely violating the relevant clauses of the Road Traffic Ordinance. But, there are no court cases found involving this clause of Chapter 374 in the database of the judiciary web-site.
- k) There is a grey area in the relevant clause of Chapter 374 Road Traffic Ordinance regarding the definitions of personal effects and goods. The licensed van-type LGVs are permitted to carry goods but not passenger with personal effects for hire or reward. However, the same Ordinance explains that personal effects can be small items personal belongings and can also be goods.

Recommendations

Based on these facts, the Institute has the following recommendations:

- a) The business environment of the urban and New Territory taxis has been getting worse over the last four years probably owing to the deteriorating economic situation in Hong Kong. There is a general hard feeling in the trade. Further market intrusion in the taxi business will certainly aggravate this hard feeling. The services offered by the van-type LGV

companies obviously jeopardize to the taxi business. The activity of the van-type LGV especially at the airport probably violates the Chapter 374 Road Traffic Ordinance. The responsible authority should take immediate actions to stop all illegal activities that harm the taxi business market.

- b) At the policy level, the current situation that the van-type LGV and the taxi offer overlapping passenger carriage services especially at the airport is highly unsatisfactory. The only difference of these two services is that van-type LGV is not permitted to accept hails on street while taxi can. This situation inflicts an equity issue. Taxi is highly regulated including requirements of drivers, vehicle body and fare level. It also has to bear a very high capital costs in terms of the high license fee, in the order of HK\$3 million. The van-type LGV is less regulated and bears much lower capital cost to operate. The intention of the law maker should not have allowed this to happen. In view of the market intrusion situation as revealed in this review, there is an immediate need to restrict the services offered by van-type LGV to primarily carry goods so as to comply with the spirit of the law. This task certainly requires the legal professional to do. As non-legal professionals, we can only contribute some ideas for the direction to change. There are three possible directions -
- i. to limit the passengers carried by the van-type LGV to two and in effect do away with the back seats of this type of vehicles in order to reflect the primary role of goods carrying for this type of vehicle. The impact of this change to those van-type LGVs genuinely for goods carrying is minimal. Less than 1% of van-type LGV carry more than two passengers at the screenline survey and 2.6% at roadside survey as shown in the survey results;
 - ii. to specify the key words "goods carriage" to be used in advertising the LGV (including van-type LGV) services; as such there is no confusion in public perception; and
 - iii. to clearly define the term "personal effects" and "goods" in the Chapter 374 Road Traffic Ordinance so that goods do not include small personal items such as a brief case or a small bag.
- c) There is a significant number of private cars likely to run passenger carrying business at the airport. These private cars may be licensed hire cars, company cars and hotel cars. However, some of them may also be unlicensed passenger vehicles. As such, these vehicles are probably operating illegally. They intrude severely into the taxi

business market. The authority should step up the enforcement action against these illegal activities.

- d) To cater for the demands of passengers who may travel in big group with more luggages at the airport, a larger taxi body is needed. The taxi trade may consider using a larger taxi car model so as to increase its luggage carrying capacity and the authority may consider allowing taxi to have a larger passenger carrying capacity to meet with these demands at the airport. There are many larger taxi models running in many major world cities.

(Source: Chapter VI of the Report on taxi services (market competition) policy review)

Measures taken to combat against illegal van-type light goods vehicles and taxis operations at the Hong Kong International Airport

The following measures are presently taken to combat against illegal van-type light goods vehicles ("LGVs") and taxis operations at the Hong Kong International Airport ("HKIA") -

(a) Task Force Against Illegal Transport Services in Hong Kong International Airport

A special task force named "Task Force Against Illegal Transport Operation in Hong Kong International Airport" ("the Task Force") was set up jointly by the Airport Authority ("AA"), the Police and the Transport Department in July 2005 to formulate appropriate measures to tackle unauthorized transport operations and other illegal activities including passenger solicitation at HKIA from the perspective of traffic management and enforcement.

(b) Administrative and management control

At present, the activity of picking up arriving passengers by vehicles (and setting down passengers, as well as loading/unloading of goods of van-type LGVs which are not allowed to set down at the departure kerb) is designated at HKIA's car parks with 30-minute free parking allowance. To prevent abuse of car park kerb and possible soliciting activities, AA revised the charging system for the car parks with effect from 26 September 2005 such that a vehicle can only enjoy 30-minute free parking once in every three hours, instead of enjoying free parking for the first 30 minutes whenever a vehicle entered the car parks.

(c) Enforcement actions

The Police are conducting regular uniformed and plainclothes operations at HKIA to tackle illegal operations of van-type LGVs there. Action is also taken on a daily basis to discourage potential operators from using the car parks to await customers.

2. In addition, the Government has also undertaken to enhance publicity to let the transport trades and the general public better understand that van-type LGVs can only be used for carriage of goods but not passengers for hire and reward. A high-level liaison meeting involving relevant bureaux and departments to provide enhanced co-ordination and steer for measures proposed by the Task Force would also be convened on a need basis.

Illegal carriage of passengers for hire or reward by light goods vehicles

List of relevant papers

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
24.3.2006	Panel on Transport	Administration's paper on roles of taxis and van-type light goods vehicles and measures taken against their illegal operation	CB(1)1139/05-06(04) http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tp0324cb1-1139-4e.pdf
		Airport Authority, Hong Kong's paper on proposal on designated goods loading / unloading area for van-type light goods vehicle at Hong Kong International Airport (follow-up paper)	CB(1)1262/05-06(01) http://www.legco.gov.hk/yr05-06/english/panels/tp/papers/tp0324cb1-1262-1e.pdf
		Minutes	CB(1)1558/05-06 http://www.legco.gov.hk/yr05-06/english/panels/tp/minutes/tp060324.pdf
24.11.2006	Panel on Transport	Administration's paper on operation of taxis and light goods vehicles	CB(1)296/06-07(03) http://www.legco.gov.hk/yr06-07/english/panels/tp/papers/tp1124cb1-296-3-e.pdf
		Minutes	CB(1)527/06-07 http://www.legco.gov.hk/yr06-07/english/panels/tp/minutes/tp061124.pdf

Date of meeting	Meeting	Minutes/Paper	LC Paper No.
20.7.2007	Panel on Transport	Administration's paper on operation of taxis and light goods vehicles at the Airport	CB(1)2111/06-07(01) http://www.legco.gov.hk/yr06-07/english/panels/tp/papers/tp0720cb1-2111-1-e.pdf
		Administration's paper on operation of taxis and light goods vehicles at the airport (follow-up paper)	CB(1)600/07-08(01) http://www.legco.gov.hk/yr06-07/english/panels/tp/papers/tp0720cb1-600-1-e.pdf
		Minutes	CB(1)146/07-08 http://www.legco.gov.hk/yr06-07/english/panels/tp/minutes/tp070720.pdf

Council Business Division 1
Legislative Council Secretariat
14 July 2014