

Regulation of non-franchised bus and school private light bus services

The Audit Commission ("Audit") conducted a review of the Transport Department ("TD")'s regulation of non-franchised buses ("NFBs") and school private light buses ("SPLBs") services.

2. In 2016, over 12 million passenger trips per day were made through different public transport services, including railway, franchised buses, public light buses, NFBs and taxis in Hong Kong. NFBs play a supplementary role in the public transport system through relieving the demand for franchised bus and green minibus services during peak hours, providing services for districts where the operations of franchised buses and green minibuses are not cost-effective, and providing services for specific passenger groups (e.g. tour groups, hotel guests and students) when the regular public transport services cannot provide appropriate services. Apart from NFBs, SPLBs are also allowed to solely provide student service. Given that the passengers of SPLBs are mostly young children who cannot take good care of themselves in emergency situations, the Government considers it important to explore measures to further enhance the safety of SPLBs. As at 31 December 2016, there were 7 043 public NFBs, 651 private NFBs and 1 966 SPLBs.

3. The Committee noted the following findings from the Director of Audit's Report:

- in light of the unhealthy competition with other public transport modes arising from an excessive supply of NFB services,¹ TD implemented in 2005 a series of measures, including stringent vetting of NFB applications and requiring Passenger Service Licence ("PSL") applicants to source vehicles from the existing fleet in the market for a period of six months, to ensure that new NFB services and vehicles would only be approved when there was justified demand. From 2004 to 2016, the utilization rate of public NFBs had increased from 81% to 86%, and the number of trips of NFB had increased by 40% from 40 104 per day to 55 970 per day. The average transaction price of a second-hand public NFB had increased from \$0.3 million in 2005 by 200% to \$0.9 million in 2016;
- Audit examined 10 PSL renewals involving 41 service endorsements granted to existing PSL holders from 2014 to 2016 and discovered that

¹ The number of registered NFBs increased from 5 900 to 7 200 between 1998 and 2003, representing an increase of 22% whereas public transport patronage only increased by 2.7% from 11.1 million to 11.4 million passengers per day over the same period.

the stringent vetting requirements of supporting documents for PSL renewal applications were not always upheld;

- it was stated in the application forms that an application for operating a new scheduled contract hire service should be submitted at least 14 days prior to the service commencement. However, Audit analysed 90 such applications approved in 2016 and found that TD took an average of 30 days to process the applications;
- Audit sample checked 30 licensing services applications involving NFBs and SPLBs processed from 2015 to 2017 and found that on average, TD took nine working days to issue the approval letters after the approval dates, but such time would not be taken into account in determining whether the target processing times of five and seven working days were achieved. Audit sample checked 26 applications processed in 2015 and 2016 and found that in two cases, the pledged processing times were not met and hence the reported 100% achievement of the pledged processing times was not supported;
- TD's annual surveys² showed an increasing trend from 2004 to 2016 in the number of NFBs suspected to be operating five types of services³ without proper approval. According to the 2016 survey results, the number of residents' service NFBs suspected to be operating without the relevant endorsement was higher than the number of licensed ones;
- 3 048 of 5 870 public NFBs surveyed in 2016 were found not displaying the stipulated service signboards, which was contrary to PSL conditions. From April to May 2017, Audit performed 22 on-board surveys (i.e. taking a ride on the buses in question) on residents' service routes selected on a risk-based approach and found that 21 (95%) of them had been operated with unauthorized stop(s) and/or routeing deviation. In a spot check at a residents' service terminal conducted in 2010, TD Regional Offices ("RO") noticed the service operated might have unauthorized stops. Another round of on-board surveys were conducted in 2016 and the findings were similar. In May 2017, Audit

² TD commissions a consultant to undertake an annual survey to collect operational information and utilization of NFBs. In view of the public concerns on demand and supply of school bus service, SPLBs have been included in the annual survey since 2015.

³ These five types of services were employees' service, tour service, student service, hotel service and contract hire service.

Regulation of non-franchised bus and school private light bus services

found that the residents' service concerned still had five to eight unauthorized stops;

- in 53 surveys with irregularities found by the ROs' contractors⁴ from 2010 to 2017, omissions and delays were found in taking follow-up actions in 35 (66%) cases. In 18 complaint cases from 2012 to 2016, ROs issued letters to request the operators concerned to cease the unauthorized operations, but follow-up surveys were only conducted in 3 (17%) cases to ascertain cessation of the unauthorized operations;
- while sanctions including cancellation and suspension of licences might be imposed on substantiated unauthorized operations, it took on average two years to complete an inquiry.⁵ From January 2012 to May 2017, the offending operators in 25 of 93 concluded inquiry cases had avoided sanctions through transfer of ownership of NFBs before completion of the inquiries. In five inquiries on unauthorized services from 2011 to 2015, before the completion of the inquiry process, the ownership of three NFBs was transferred to other PSL holders (i.e. four companies with common director(s) and one individual being a shareholder of one of the companies) at \$1 each and the relevant PSLs under the inquiries were cancelled. As a result, no sanction could be imposed;
- since implementation of safer seat requirements in 2009,⁶ 3 382 (64%) of 5 261 NFBs/SPLBs providing student services had been fitted with safer seats up to July 2017. It might take up to another six years to phase in safer seats for the remaining 1 879 vehicles. TD's consultancy study report⁷ found that the benefits of safer seats could be further enhanced by providing child restraint systems for passengers aged under 4.5 years or weighing under 18 kilograms or providing

⁴ RO will arrange contractors' staff to conduct investigative surveys on black spots proactively or upon receipt of a complaint or referral.

⁵ If an unauthorized service detected by ROs persists and is substantiated after further investigation by the NFB Enforcement Team, the case will be recommended to the Commissioner for Transport for holding an inquiry.

⁶ In 2007, legislative amendment was made to require all student service vehicles registered on or after 1 May 2009 to be equipped with safer seats to protect children in the event of a crash.

⁷ In July 2010, TD commissioned a consultant to study the feasibility of installing seat belts on student service vehicles and compare the effectiveness and safety merits of seat belts with those of safer seats in the protection of students on student service vehicles. The consultant concluded its report of March 2013.

lap-shoulder seat belts which could reduce risks of injury and fatality in side-impact and rollover accidents; and

- according to TD, a number of issues had to be thoroughly considered and resolved before a decision could be taken on the types of measures to further enhance the safety of student service vehicles, e.g. safety benefits, legal issues, impact on trade and views of stakeholders.

4. The Committee did not hold any public hearing on this subject. Instead, it asked for written responses regarding the licensing requirements for NFBs; the handling of applications relating to NFBs and SPLBs; measures to improve the regulation on unauthorized NFB operations; and the progress and timeline for implementing the safety measures of student services vehicles. The consolidated replies from **Secretary for Transport and Housing** and **Commissioner for Transport** are in *Appendix 30*.

5. The Committee wishes to be kept informed of the progress made in implementing the various recommendations made by Audit.