Written Submission to Bills Committee
On Mass Transit Railway Bill

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I shall confine my comments on the following points:

1. Benefits of Privatization of MTRC

I believe the privatization of the Mass Transit Railway is good for Hong Kong. As a fully-owned government corporation, the MTRC is known for its efficiency and the good quality of its service. As a privatized entity, it will be in a good position to create economic values for its shareholders and the community as well.

After privatization, the Government will own 51% of the shares of the privatized entity, called MTR Corporation Limited (MTRCL). The new company will be accountable to both the public and its shareholders, and the new ownership form will change the orientation of the company. The company will need to be run to create shareholder value, while fulfilling its obligations to the public as the franchise operator of Hong Kong's mass transit railway. These two goals are not necessarily in conflict. The MTRCL can create economic value by improving its existing services and introducing new ones, and exploring the use of new technologies in providing these services. As a company well known for the quality of its management, the company should be well equipped to exploit the synergy in its existing business and new opportunities. The economic value created will benefit the shareholders (including the Government as a majority shareholder) and the economy as well.

2. The Safeguarding of Public Interest

The Bill calls for the Government entering into an Operating Agreement with the MTRCL. Under this agreement, which is being worked out by the Government and the MTRC, MTRCL will be responsible for maintaining a proper and efficient service. The Government will have the power to request MTRCL to review its operational arrangements and suggest improvements to MTRCL where appropriate. MTRCL will be required to give considerations to the Government's suggestions, and to provide explanations if it decides not to adopt them. In deciding on the fares, MTRCL will also be required to take into account the acceptability to the public as guaged through consultation with the LegCo Panel on Transport and Transport Advisory Committee. Finally, the Operating Agreement provides a mechanism for stipulating performance levels required of MTRCL. Substantial and persistent failure to meet these standards might be cause for imposition of penalties, suspension or revocation of franchise.

The Government has also reaffirmed its commitment to a policy of maintaining competition among different modes of public transportation. In my view, a competitive environment provides strong incentives to MTRCL to provide quality service at reasonable costs. This is not to suggest that, we can rely on the competitive threat alone to ensure that MTRCL will always act responsibly as the sole operator of the mass transit railway in Hong Kong. It is necessary to have the Operating Agreement to give the Government an effective means to monitor performance of the new corporation and to ensure that the public interest is served. From the stated intentions of the Government and the broad shape of the Operating Agreement that is being worked out, I believe the Government has effective tools to regulate the new company.

3. Fare Regulation

The Bill provides that MTRCL shall have fare autonomy, subject to a consultation process as specified in the Operating Agreement which MTRCL should use in setting the fare. The Government has stated that it intends to include in the Operating Agreement explicit requirements MTRCL to consult the LegCo Panel on Transport and the Transport Advisory Committee before changing the level of fares. In addition, when determining new fare levels, MTRCL is also required to take into account the level of public acceptance through conducting passenger surveys.

I believe that as a business, MTRCL should be allowed to set fares, as any business should be able to set prices of its products. Without the autonomy in setting fares, it will be difficult for the company to develop its business strategy and to make investment decisions. Of course, MTRCL is not just any corporation. It is given a franchise to run an important transportation network in Hong Kong, and it should not be allowed to set fares without regard to public interests. In my view, however, it is not a good idea to take away the fare setting power of the company. To do so will inject uncertainty to business planning, making it difficult for the management to create economic values, which is the intended benefit of privatization. Without the fare setting ability, the new company will not be attractive to the market, making it either hard to sell the stock or to get a good price for it.

I do not favour adopting a formula that explicitly specifies the allowable level of future fare increases, such as specifying that future fare increases be lower than general inflation. The factors of production in providing the railway services are different from the components that go into the general inflation index. Any explicit rule specified cannot anticipate the changes in the economics of providing railway services. Its adoption is unnecessarily restrictive to the company and adding uncertainty to the company’s prospects.

Summary

Privatization of MTRC will be beneficial to the Hong Kong, as the company will be given more room to create economic values. The proper regulatory framework should aim at protecting public interests without limiting the business opportunities of the company. With the Government retaining 51% ownership of the new company and an Operating Agreement that regulates the future conduct of the company, the Bill provides a good balance between the two goals.