

立法會
Legislative Council

LC Paper No. CB(1)1770/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/4/02

**Bills Committee on
Tung Chung Cable Car Bill**

**Meeting on
Friday, 9 May 2003, at 9:30 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon James TIEN Pei-chun, GBS, JP (Chairman)
Ir Dr Hon Raymond HO Chung-tai, JP
Hon SIN Chung-kai
Hon Howard YOUNG, JP
Hon Miriam LAU Kin-ye, JP
Hon Albert CHAN Wai-yip
- Members absent** : Hon Cyd HO Sau-lan
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon TAM Yiu-chung, GBS, JP
- Public officers attending** : Economic Development and Labour Bureau

Mr Duncan PESCOD
Deputy Commissioner for Tourism

Mrs Erika HUI
Assistant Commissioner for Tourism

Miss Joan HUNG
Administrative Officer (Tourism)

Department of Justice

Mr John WILSON
Consultant Counsel

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Ms Carmen CHU
Senior Government Counsel

Clerk in attendance : Mr Andy LAU
Chief Assistant Secretary (1)2

Staff in attendance : Miss Connie FUNG
Assistant Legal Adviser 3

Ms Debbie YAU
Senior Assistant Secretary (1)1

Action

I Confirmation of minutes and matters arising
(LC Paper No. CB(1)1556/02-03 - Minutes of meeting held on 11.4.2003)

The minutes of the meeting on 11 April 2003 were confirmed.

II Information papers issued since last meeting

(LC Paper No. CB(1)1601/02-03(01) - Information paper provided by the Administration in response to issues raised at the meeting on 28.4.2003;

LC Paper No. CB(1)1601/02-03(04) - The Administration's response to written submissions put forward by New Lantao Bus Co. (1973) Ltd and Mr YEUNG Wai-sing, Eastern District Council Member; and

LC Paper No. CB(1)1601/02-03(05) - Financial information on the Tung Chung Cable Car Project provided by the MTR Corporation Limited.)

2. The Bills Committee deliberated (Index of proceedings attached at **Annex A**).

3. Members noted the information papers issued since last meeting.

Action

III Committee Stage amendments

- (LC Paper No. CB(1)1601/02-03(02) - Letter dated 29.4.2003 from Assistant Legal Adviser to the Administration;
- LC Paper No. CB(1)1601/02-03(03) The Administration's reply dated 5.5.2003 to the Assistant Legal Adviser;
- LC Paper No. CB(1)1601/02-03(07) - Committee Stage amendments on the Bill and the explanatory notes prepared by the Administration (revised version); and
- LC Paper No. CB(1)1635/02-03(01) Marked-up copy of the Committee Stage amendments to be moved by the Administration)
(*Tabled and subsequently circulated to members on 12 May 2003*)

4. In response to members' comments on the draft Committee Stage amendments (CSAs) as set out in LC Paper No. CB(1) 1601/02-03(07), the Administration agreed to consider a number of technical amendments to improve the text of the Bill. Members requested that the revised CSAs be circulated to members for consideration.

5. The Bills Committee requested the Assistant Legal Adviser (ALA) to advise whether any exemptions granted to the MTR Corporation Limited (MTRCL) under other Ordinances would be applicable to the Tung Chung Cable Car Bill in the event that the franchise to operate the Cable Car System was granted to MTRCL.

(Post-meeting note: ALA had advised that to decide whether MTRCL, if granted the franchise to operate the Cable Car System, could rely on the exemption provisions provided in other Ordinances in respect of the System, it was necessary to consider whether the scope of those other Ordinances was such as to apply to the operation of the Cable Car System. For example, the scope of the Noise Control Ordinance (Cap. 400) would seem to be wide enough to apply to the control of noise emanating from the Cable Car System. As such, if a noise abatement notice was served on MTRCL under section 13 of Cap. 400 in respect of the System, MTRCL would be able to rely on section 37 of that Ordinance. If the policy intent was to disapply section 37 of Cap. 400, consideration might be given to include an express provision in the Bill to reflect this intent. ALA had also looked at other legislation of similar nature to the Noise Control Ordinance, including the Air Pollution Control Ordinance (Cap. 311), Waste Disposal Ordinance (Cap. 354) and Water Pollution Control Ordinance (Cap. 358), and found that these Ordinances did not contain any provision similar to section 37 of Cap. 400. The Administration subsequently advised that it intended to move a new CSA to clause 20 to the effect that section 37 of Cap. 400 should not apply to construction works as defined in the Bill or the operation of the Cable Car System. Members were consulted vide LC Paper No. CB(1)1656/02-03 and they raised no objection to the proposal.)

Action

IV Any other business

6. The Bills Committee agreed that if members raised no further comments on the revised CSAs put forward by the Administration, the Chairman should submit a report to the House Committee on 16 May 2003, recommending the resumption of Second Reading debate on the Bill.

7. There being no other business, the meeting ended at 10:25 am.

Council Business Division 1
Legislative Council Secretariat
27 May 2003

**Proceedings of the meeting of the Bills Committee on
Tung Chung Cable Car Bill
Friday, 9 May 2003, at 9:30 am
in Conference Room B of the Legislative Council Building**

Time	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes and matters arising</i>			
000000 - 000010	Chairman	<ul style="list-style-type: none"> • Introductory remarks • Confirmation of minutes of meeting on 11 April 2003 	
<i>Agenda Item II – Information papers issued since last meeting</i>			
000011 - 000235	Chairman Administration	<ul style="list-style-type: none"> • Briefing by the Administration on LC Paper Nos. CB(1) 1601/02-03(01), (04) and (05) 	
<i>Agenda Item III – Committee Stage amendments</i>			
000236 - 001823	Chairman Administration Mr Albert CHAN ALA3 Ms Miriam LAU	<ul style="list-style-type: none"> • Views on Committee Stage amendments (CSAs) to be moved by the Administration (LC Paper No. CB(1) 1635/02-03(01)) <p><u>Clause 2</u></p> <ul style="list-style-type: none"> • Clause 2(6) was added to clarify for the avoidance of doubt, the meaning of "wholly-owned subsidiary", along the lines of section 124(4) of the Companies Ordinance (Cap. 32) • Application of the exemption provision under section 37 of the Noise Control Ordinance (Cap. 400) to the Cable Car System • Whether any exemptions granted to the MTR Corporation Limited (MTRCL) under other Ordinances would be applicable to the Tung Chung Cable Car Bill in the event that the franchise to operate the Cable Car System was granted to MTRCL 	The Assistant Legal Adviser to advise as per paragraph 5 of the minutes
001824 - 003035	Chairman Administration ALA3 Ms Miriam LAU Mr Howard YOUNG	<p><u>Clause 5</u></p> <ul style="list-style-type: none"> • Updating of Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) upon the disposal of the Company's rights and obligations to a body corporate pursuant to clause 5(1) • Whether there was a need to replace reference to "a body corporate" with "a person" under clause 5(4) to ensure consistency with other parts of the Bill 	
003036 - 003120	Chairman Administration	<u>Clause 10</u>	
003121- 003720	Chairman Administration Ms Miriam LAU ALA3	<p><u>Clause 13(2)</u></p> <ul style="list-style-type: none"> • Whether the discretionary power granted to the Director under clause 13(2) would be subject to the test of reasonableness and whether the expression "reasonably" should be added to reflect the intent 	

Time	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> • Whether the right of a potential claimant to submit a claim under clause 13 to the Lands Tribunal for determination would be subject to the normal time limit for bringing actions (i.e. six years) 	
003721 - 003800	Administration Chairman	<u>Clause 14</u>	
003801 - 003917	Administration Chairman Ir Dr Raymond HO	<u>Clause 16</u>	
003918 - 003948	Administration Chairman	<u>Clause 23</u>	
003949 - 004521	Administration Chairman ALA3 Ms Miriam LAU	<u>Clause 27</u>	
004522 - 004550	Chairman Administration	<u>Clause 28</u>	
004551 - 004720	Administration Chairman Ir Dr Raymond HO	<u>Clause 29</u> <ul style="list-style-type: none"> • Clause 29(1)(ba) was proposed to ensure that the liability of the Company arising from the emergency access to the land pursuant to clause 14 would not cease only by reason of the franchise being terminated 	
004721 - 004733	Administration Chairman	<u>Clause 31</u>	
<i>Agenda Item IV – Any other business</i>			
004734 - 005030	Chairman ALA3 Clerk Ms Miriam LAU Administration	<ul style="list-style-type: none"> • Submission of revised CSAs to be moved by the Administration • Reporting to the House Committee and resumption of Second Reading debate on the Bill 	