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Secretary for Economic Development and Labour
(Attention : Miss Joan Hung,
Administration Officer (Tourism))
Economic Development and Labour Bureau
2/F Main and East Wings
Central Government Offices
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Hong Kong

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BY FAX

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Dear Miss Hung,

Tung Chung Cable Car Bill

I should be grateful if the Administration will take into account the following matters when finalising the Committee Stage amendments (CSAs) on the above Bill:

Part 7

- (a) It is true that "all other relevant legislation" in clause 24(2)(a) can be construed to mean those legislation relevant to the operation and maintenance of the Cable Car System. However, since the provision will affect the Company, it is important that the Company is aware of the ambit of "all other relevant legislation" to avoid any unnecessary argument on the extent to which the Company may be held to be in default under the Bill. As such, please consider the need to stipulate expressly the legislation intended to be covered in clause 24(2)(a).
- (b) It is noted that the Administration will propose amendments to clause 27 to enable the Chief Executive in Council to vest the franchise in a third party after revocation of the franchise and the definition of "Company" in clause 2 will also be amended to include such third party. As a result of these amendments, it would appear necessary to add a provision in Part 7 of the Bill, similar to section 65 of the Western Harbour Crossing Ordinance (Cap. 436) and section 58 of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474), to make it clear that clauses 29(5), 30 and 31 are applicable only to the franchise holder immediately before the revocation.

- (c) Please consider whether it is necessary to add a provision in clause 29 along the lines of section 61(4) of the Western Harbour Crossing Ordinance and section 54(4) of the Tai Lam Tunnel and Yuen Long Approach Road Ordinance.
- (d) Please consider whether it is necessary to add a provision providing for the resolution, by arbitration or otherwise, of any dispute between the Company and the Government as to the amount payable by the Government to the Company under clause 30.

Schedule

Does the royalty remain payable by the third party in whom the franchise is vested by the Chief Executive in Council after the revocation of the franchise under clause 27 of the Bill? If so, please consider whether section 4 of the Schedule, as drafted, can cover this situation?

Chinese text

Definition of "level 2" and "level 3"

Please consider the need to add "各別" or "分別" in the Chinese text to reflect the meaning of "respectively" in the corresponding English text.

Clause 30

To address one Member's concern on the Chinese text of this provision, please consider amending the Chinese text to make the sentence structure of the English and Chinese texts match. The following version is proposed for your consideration:

"在專營權因專營期屆滿而終止時，政府無須向吊車公司支付任何補償，但須向吊車公司支付下述物件的剩餘價值，而該剩餘價值是按照工程項目協議計算的：

- (a) 組成吊車公司所購買的資產的一部分的任何物件；而
- (b) 該等物件是在財政司司長同意下在緊接專營期屆滿前的 5 年內購買的；並
- (c) 在專營期屆滿日期屬吊車公司所擁有的。".

Clause 31

As the meaning of "儘管" does not appear in the English text, please consider amending the Chinese text to make it consistent with the English text. One suggested version is "吊車公司資產根據本部歸屬政府，並不使政府須對吊車公司的任何債項負法律責任。".

After enactment of the Bill and before its commencement, the Administration may need to consider whether it is necessary to amend the Lands Tribunal Rules (Cap. 17 sub. leg. A) to provide for the practice and procedure governing claims for compensation under the Tung Chung Cable Car Ordinance.

To enable us to prepare a marked-up copy of the CSAs for consideration by the Bills Committee at its next meeting on 9 May 2003, I would appreciate it if you could let us have the CSAs *on or before 5 May 2003*.

Yours sincerely,

(Connie Fung)
Assistant Legal Adviser

cc: DoJ (Attn: Mr John F Wilson (Consultant Counsel) Fax No. 2869 1302)
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