

立法會 *Legislative Council*

LC Paper No. CB(1)2367/02-03

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by the Administration and
cleared by the Chairman)

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Panel on Transport and Panel on Economic Services

Minutes of joint meeting held on Friday, 27 June 2003, at 10:45 am in the Chamber of the Legislative Council Building

Members present : Members of the Panel on Transport

- * Hon Miriam LAU Kin-yee, JP (Chairman)
Dr Hon David CHU Yu-lin, JP
Ir Dr Hon Raymond HO Chung-tai, JP
- * Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon Andrew CHENG Kar-foo
Hon TAM Yiu-chung, GBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Albert CHAN Wai-yip
- * Hon LEUNG Fu-wah, MH, JP

Members of the Panel on Economic Services

Hon James TIEN Pei-chun, GBS, JP (Chairman)
Hon Eric LI Ka-cheung, JP
Hon Fred LI Wah-ming, JP
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kam-lam, JP
Hon CHOY So-yuk
Hon Henry WU King-cheong, BBS, JP

(* Also a member of the Panel on Economic Services)

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Non-Panel Member : Hon Cyd HO Sau-lan
attending

Members absent : Members of the Panel on Transport

- * Hon Abraham SHEK Lai-him, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Hon CHAN Kwok-keung
Hon Andrew WONG Wang-fat, JP
- * Hon LAU Chin-shek, JP
Dr Hon TANG Siu-tong, JP
Hon WONG Sing-chi
Hon LAU Ping-cheung

Members of the Panel on Economic Services

Dr Hon LUI Ming-wah, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Dr Hon David LI Kwok-po, GBS, JP
Hon SIN Chung-kai
Dr Hon Philip WONG Yu-hong
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP

(* Also a member of the Panel on Economic Services)

Public Officers : Environment, Transport and Works Bureau
attending

Mr Arthur HO
Deputy Secretary for the Environment, Transport and Works

Mr Patrick HO
Principal Assistant Secretary for the Environment, Transport and Works

Economic Development and Labour Bureau

Mr Alex WONG
Principal Assistant Secretary for Economic Development and Labour

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Transport Department

Ms Carolina YIP
Assistant Commissioner for Transport/Bus & Railway

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

Staff in attendance : Ms Alice AU
Senior Assistant Secretary (1)5

Miss Winnie CHENG
Legislative Assistant 5

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I Election of Chairman

Ms Miriam LAU was elected Chairman of the joint meeting.

II Future development of franchised bus services on Hong Kong Island in relation to the proposed acquisition of Citybus Limited by Chow Tai Fook Enterprises Limited

(LC Paper No. CB(1)2073/02-03(01) - Information paper provided by the Administration)

2. The Chairman said that on 9 June 2003, Chow Tai Fook Enterprises Ltd. (CTF) announced that its 100% indirect subsidiary, Delta Pearl Ltd., had reached agreement on a commercial deal with Stagecoach Group plc (Stagecoach) for the purchase of SGC (HK Group) Ltd. which owned 100% of Citybus Ltd. (Citybus). CTF was the major shareholder of New World Development Company Limited which in turn had interests in NWS Holdings Ltd., i.e. the holding company of New World First Bus Services Ltd. (NWFB). At the request of Mr CHENG Kar-foo and Mr Fred LI, the Panels on Transport and Economic Services had convened this joint meeting to discuss the future development of franchised bus services on Hong Kong Island in relation to the proposed acquisition of Citybus by CTF.

3. Mr James TIEN declared interest as the non-Executive Director of New World China Land Limited which was a subsidiary of New World Development Company Limited with core business in property development in the Mainland. He also confirmed that New World China Land Limited did not have any involvement in the proposed acquisition.

Impact on the standard of franchised bus services

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4. At the invitation of the Chairman, the Deputy Secretary for the Environment, Transport and Works (DS for ETW) briefed members on the paper provided by the Administration (LC Paper No. CB(1)2073/02-03(01)) which set out the Government's initial views on the possibility of a joint venture between Citybus and NWFB. As the Administration understood, CTF and NWS Holdings Ltd. intended to engage independent professional advisers to review the possible joint venture format and study ways to achieve synergy in terms of management structure, operations and staff resources.

5. Referring to the congestion and air pollution created by franchised buses in urban busy corridors, Mr CHAN Kam-lam concurred with the need for the two bus companies to identify ways to enhance operational efficiency and minimize wasteful competition. This might in turn help bring down the level of bus fare. To this end, the Administration should adopt a more pro-active approach so as to speed up discussion between the two bus companies on proposals to rationalize the level or routeing of their services. He added that if an early decision was made, it could also alleviate the worries of the employees of the two companies.

6. Highlighting the important monitoring role played by the Government, Mr LAU Kong-wah asked whether public interest in terms of lower fare and better service would be a determining factor to be considered by the Administration when assessing any joint venture proposal from Citybus and NWFB.

7. Mr CHEUNG Man-kwong also said that in order to bring real benefits to the passengers, the Administration must ensure the downward adjustment of bus fare through the joint venture proposal.

8. In response, DS for ETW said that the commercial transaction between CTF and Stagecoach only involved a change in the shareholder of Citybus' holding company and did not involve any assignment or disposition of Citybus' franchises. He stressed that up till now, the Government had not yet received any joint venture proposal concerning Citybus and NWFB. If in future the relevant companies put up proposals involving changes of franchises or bus networks, it would require approval from the Chief Executive-in-Council in accordance with the relevant provisions of the Public Bus Services Ordinance (PBSO) (Cap. 230). In evaluating the application, the Government would carefully assess the impact on competition, the staff and the passengers.

9. Mr Albert CHAN was worried that the inefficiency bred by a lack of competition in the market would give rise to increasing fare and deteriorating service. Hence, it would be most important for the Administration to safeguard public interest by preventing monopolistic practices in the franchised bus market.

10. In reply, DS for ETW reiterated that there were provisions in PBSO and the bus franchises to ensure that franchised bus operators should provide proper and efficient bus services at all times during the franchise period. Franchised bus operators were not allowed to change the level or routeing of bus services or bus fare level without prior

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approval by the relevant authority. There was close monitoring of the performance of bus operators by the Transport Department (TD).

11. Addressing members' concern about maintaining the level of bus services, DS for ETW said that no exclusive right was granted to the franchisees for the operation of individual bus routes. Where the performance of an existing bus service was not satisfactory, TD would follow up with the operator concerned to require suitable improvements. If the franchisee concerned still failed to offer a satisfactory service, the Government would consider introducing another operator to operate the services. In the worst case, the Government could refuse to renew its operating franchise.

12. DS for ETW added that when evaluating proposals for any joint venture or change of bus network, the Administration would need to be satisfied that proper and efficient bus services would be maintained, and the proposed change would benefit the passengers as well as Hong Kong as a whole. As such proposals could enhance the operational efficiency of the bus companies, there might be room for the companies to lower their fare or offer concessions to the passengers. In this connection, he said that TD would work together with the relevant companies in taking forward their bus route rationalization proposals.

13. Mr LEUNG Fu-wah stressed the need for the Administration to consider any joint venture proposal from Citybus and NWFB from the perspective of safeguarding job security for the employees of the two bus companies. Citing the Administration's rail-based transport policy, he also expressed concern about the adverse impact of railway development, in particular the current planning for the South Hong Kong Island Line (SIL), on the business of other public transport operators as well as the job security of their employees.

14. In response, DS for ETW said that it was too early to predict the future staffing position of the bus companies. But if any joint venture proposal was received, he assured members that the Administration would carefully assess its impact on the staff of the companies. The Administration would also encourage the management of the companies to maintain regular communication with their staff so that measures could be worked out to minimize any adverse impact.

15. Regarding the planning of SIL, DS for ETW advised that MTRCL had commenced a further study on SIL, and a decision on the project had yet to be made. While the opening of new railways would undoubtedly have an impact on the business of other public transport services, he said that their construction and operation would also create many job opportunities for Hong Kong's work force.

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Impact on competition in the franchised bus market

16. Mr Fred LI was gravely concerned that without an all-embracing competition law in Hong Kong, there was no way to safeguard the level of competition in the franchised bus market after the proposed acquisition, particularly on Hong Kong Island, as the two franchised bus operators were effectively controlled by the same holding company. Under the existing regulatory framework, the Government had no control over such acquisition activities as long as no assignment or disposition of franchises was involved. Citing the Telecommunications (Amendment) Bill 2002 which sought to clarify the regulatory regime governing merger and acquisition activities in the telecommunications market, Mr LI called on the Administration to consider introducing similar legislative amendments to improve the regulatory framework of the franchised bus market. In this connection, he enquired about the role of the Competition Policy Advisory Group (COMPAG) in ensuring the level of competition in the market, and asked whether any joint venture proposal involving Citybus and NWFB would require COMPAG's prior endorsement before approval from the Chief Executive-in-Council was sought.

17. Both Mr CHENG Kar-foo and Mr Albert CHAN expressed dissatisfaction that as illustrated in the present case, the Government obviously did not have adequate regulatory power over acquisition and merger activities in the franchised bus market. They pointed out that nowadays, merger and acquisition activities might take place at the level of the holding company. While no transfer of franchise was involved, such activities would certainly impact on the provision of services by the franchisees. To prevent undesirable cross-ownership which might adversely affect competition, the Administration should review the current regulatory regime so that any change in the ownership of the franchisees would be properly scrutinized.

18. To promote the level of competition in the market, Mr CHENG Kar-foo said that TD should review its existing mechanism for awarding bus routes in packages as the successful operator was effectively given a geographical monopoly for the provision of bus services in specific areas. Mr Albert CHAN was also concerned that if only the routes operated by Citybus and NWFB were rationalized as a result of the proposed acquisition, it might indirectly help strengthen the dominant market position of Kowloon Motor Bus Company (1933) Limited.

19. Speaking in his capacity as the Secretary of COMPAG, the Principal Assistant Secretary for Economic Development and Labour (PAS for EDL) advised that the objective of the Government's competition policy was to enhance, inter alia, economic efficiency, thereby benefiting consumers. The Government believed that competition was best nurtured and sustained by allowing the free play of market forces and keeping intervention to the minimum. Hence, the Administration would not interfere with market forces simply on the basis of the number of operators. However, actions would be taken if market accessibility or market contestability were limited by market imperfections or distortions as economic efficiency or free trade would be impaired to the detriment of the overall interest of Hong Kong.

20. PAS for EDL further said that COMPAG, a high-level and dedicated forum

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under the chairmanship of the Financial Secretary, was tasked to review competition-related issues which had substantial policy or systemic implications, and examine the extent to which more competition should be introduced in the public and private sectors. Having looked into the change of shareholder of Citybus' holding company, COMPAG noted that in the absence of specific proposals as regards bus services, it was not in a position to identify what were the competition issues involved. COMPAG would continue to monitor any development which might raise competition issues. Should there be any anti-competition practices, COMPAG would tender advice to the Environment, Transport and Works Bureau for consideration. At Mr Fred LI's request, DS for ETW undertook to brief members if such advice was received from COMPAG.

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21. Noting members' concern about the level of competition in the market, DS for ETW said that the Administration was also mindful of the need to prevent over-concentration of market power in a few operators. He reiterated that as no exclusive right was granted to any franchisees for the operation of bus routes, the Administration could always invite other operators to tender for the operation of existing routes if there were serious and persistent problems with the services provided by a franchisee. The Administration would closely monitor development to ensure fair competition and a level playing field in the franchised bus market.

22. Summing up the discussion, the Chairman called on the Administration to take note of the concerns raised by members on the development of franchised bus services in relation to the proposed acquisition. DS for ETW responded by re-assuring members that any proposals involving changes of bus networks would be considered carefully so as to maintain a right balance between enhancing efficiency and maintaining provision of proper and efficient bus services by the franchisees concerned. At members' request, he agreed that the Administration would arrange to consult the Panel if such proposals were received.

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III Any other business

23. There being no other business, the meeting ended at 11:55 am.