

立法會
Legislative Council

LC Paper No. CB(1)2344/04-05
(These minutes have been seen
by the Administration)

Ref: CB1/SS/10/04

**Subcommittee on Proposed Resolution under
Section 22 of the Tung Chung Cable Car Ordinance**

**Meeting on
Thursday, 8 September 2005, at 10:45 am
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP
Hon Albert CHAN Wai-yip
Hon LEE Wing-tat
Hon CHEUNG Hok-ming, SBS, JP
- Members absent** : Hon CHAN Kam-lam, SBS, JP
Hon SIN Chung-kai, JP
Hon Howard YOUNG, SBS, JP
Hon Albert Jinghan CHENG
- Public Officers
Attending** : Ms Maisie CHENG
Deputy Commissioner for Tourism
Economic Development and Labour Bureau
- Miss Patricia SO
Assistant Commissioner (Tourism) 2
Economic Development and Labour Bureau
- Mr Raymond CHAN
Senior Assistant Law Officer (Civil Law)
Department of Justice
- Mr Albert YUEN
Assistant Commissioner/Bus & Railway
Transport Department

Miss Alice AU YEUNG
Principal Transport Officer/Bus & Railway 2
Transport Department

Attendance by invitation : MTR Corporation Limited

Ms Teresa CHEUNG
Legal Manager General

Skyrail-ITM (Hong Kong) Limited

Mr Bill CALDERWOOD
General Manager

Mr David CLARE
General Manager

Mr David LOADER
Development Operations Manager

Clerk in attendance : Ms Anita SIT
Senior Council Secretary (1)9

Staff in attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Anthony CHU
Council Secretary (1)2

Action

- I Meeting with the Administration**
- (LC Paper No. CB(1)2257/04-05(01) - Follow-up actions arising from the meeting on 5 September 2005 prepared by the Secretariat
 - LC Paper No. CB(1)2257/04-05(02) - Information paper provided by the Administration
 - LC Paper No. CB(3)683/04-05 - Proposed resolution under Section 22 of the Tung Chung Cable Car Ordinance (Cap. 577) moved by the Secretary for Economic Development and Labour)

Action

The Subcommittee deliberated (index of proceedings attached at **Annex A**).

2. The Administration and MTR Corporation Limited (MTRCL) / Skyrail-ITM (Hong Kong) Limited (Skyrail) were requested to take the following follow-up actions –

Regarding provisions in the proposed Tung Chung Cable Car Bylaw

- (a) Regarding section 32 on use of radios, cassettes, etc., to revise the provision to make it clear that the use of the devices was allowed provided that they were used with an earphone or headset.
- (b) Regarding section 33(a)(i), to refine the drafting of the Chinese version of the provision to make it more comprehensible.
- (c) Regarding section 33(b), to consider relaxing the provision to allow passengers to drink water in the Cable Car System area.
- (d) Regarding section 40(1)(a), to consider revising the provision to confine the scope of “offensive language” and “offensive behaviour” to those that cause a nuisance to any other person on the cable car or in the Cable Car System area.
- (e) Regarding section 40(1)(d), to refine the drafting of the Chinese version of the provision to better reflect the intention that only those activities undertaken for commercial purposes were not allowed unless authorized by an official.
- (f) Regarding section 50 on disposal of lost property, to add after section 50(2) a provision to reflect Skyrail’s policy that proceeds from the sale or disposal of unclaimed lost properties will be donated to charitable organizations or used for charitable purposes after 6 months of the sale or disposal of the lost properties.
- (g) To consider amending the Chinese translation of the term “an official” in the Bylaw to make it clear that such an official was duly authorized to act on behalf of the Company.

Regarding the authorization of officials to enforce the proposed Bylaw

- (h) To devise practical means through which –
 - (i) the general public and passengers could easily ascertain which official(s) (say in terms of post or rank) was/were duly authorized to enforce a provision in the Bylaw; and

Action

- (ii) in the course of taking an enforcement action, the relevant official could effectively prove the authorization accorded to him/her to take the enforcement action.

3. The Subcommittee completed the clause-by-clause examination of the English version of the proposed Tung Chung Cable Car Bylaw. The Administration was requested to revise the proposed Bylaw as discussed and consult the legal adviser of the Subcommittee on the drafting aspects before the next meeting.

II Any other business

4. Members agreed that the next meeting would be held on Wednesday, 5 October 2005 at 10:45 am.

5. There being no other business, the meeting ended at 12:45 pm.

Council Business Division 1
Legislative Council Secretariat
3 October 2005

**Proceedings of the first meeting of Subcommittee on
Proposed Resolution under Section 22 of the
Tung Chung Cable Car Ordinance (Cap. 577)
Thursday, 8 September 2005, at 10:45 am
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
Agenda Item I – Meeting with the Administration			
000000 – 000118	Chairman	Opening remarks	
<i>Matters raised the meeting on 5 September 2005</i>			
000119 – 000440	Administration	Briefing on forecast number of visitors to Ngong Ping and their corresponding trips by different transport modes (LC Paper No. CB(1)2257/04-05(02))	
000441 – 002849	Skyrail MTRCL Chairman ALA2 Albert CHAN	<p>Briefing on Skyrail’s response to queries arising from the meeting on 5 September 2005 (LC Paper No. CB(1)2263/04-05(01))</p> <p>Administration would refine the drafting of section 12 of the proposed Bylaw taking into consideration of the Control of Exemption Clauses Ordinance (Cap. 71).</p> <p>Skyrail confirmed that under its refund policy, if a passenger had bought a single-trip or return-trip ticket of the Cable Car System (CCS) and subsequently did not wish to take the trip(s) for one reason or another, the passenger would be entitled to a full refund if the ticket had not been used at all or a refund for the unused portion of the ticket without being required to give reasons for the refund.</p>	
<i>Clause-by-clause examination of the proposed Tung Chung Cable Car Bylaw</i>			
002850 – 003324	Chairman Mr Albert CHAN MTRCL ALA2	<p>Major differences between the proposed Bylaw and the Ocean Park Bylaw (Cap. 388B) with particular regard to the powers of the Company</p> <p>According to MTRCL,</p> <p>(a) provisions in the Ocean Park Bylaw that were not relevant to the CCS were not included in the proposed Bylaw;</p> <p>(b) section 51(1)(b) in the proposed Bylaw was a new provision not present in the Ocean Park Bylaw; and</p> <p>(c) a number of provisions were included in the proposed Bylaw in order to</p>	

Time marker	Speaker	Subject(s)	Action required
		<p>comply with the Aerial Ropeways (Safety) Ordinance (Cap. 211) and Aerial Ropeways (Operation and Maintenance) Regulations (Cap. 211A) and these provisions were different from the corresponding provisions in the Ocean Park Bylaw.</p>	
003325 – 003942	MTRCL Mr LEE Wing-tat Chairman	<p><i>Sections 21 to 24</i></p> <p><i>Section 25</i> According to MTRCL, this provision was in fact a requirement under the Aerial Ropeways (Operation and Maintenance) Regulations. The Company would draw up detailed enforcement guidelines, which would cover the types of contagious diseases that would trigger enforcement action under section 25(b).</p>	
003943 – 004236	MTRCL Administration Mr LEE Wing-tat Chairman	<p><i>Section 26</i></p> <p><i>Section 27</i> The Administration confirmed that there were safety regulations governing the operation of government and commercial helicopter services. There had been close liaison between MTRCL/Skyrail and the Civil Aviation Department to ensure that helicopter services would not adversely affect the safety and proper operation of CCS.</p>	
004237 – 004341	MTRCL	<i>Sections 28-31</i>	
004342 – 010046	MTRCL Chairman Administration Mr Albert CHAN Mrs Selina CHOW ALA2	<p><i>Section 32</i> Members considered that given that the objective of this provision was to avoid the use of the named devices causing undue disturbance to other passengers, the present drafting of the provision was unnecessarily harsh. They requested that the provision be revised to make it clear that the use of the devices was allowed provided they were used with an earphone or headset.</p> <p><i>Section 33</i> Drafting of the Chinese version of section 33(a)(i)</p> <p>While members appreciated the management considerations underlying section 33(b), they considered that taking into account the duration of the cable car</p>	<p>Administration/MTRCL to take action as set out in paragraph 2(a) of the minutes</p> <p>Administration/MTRCL to take actions as set out in paragraph 2(b) and (c) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
		journey and the fact that the CCS was a tourist facility, passengers should be allowed to drink water within the CCS area.	
010047 – 010238	MTRCL	<i>Sections 34-39</i>	
010239 – 011013	MTRCL Administration Mr Albert CHAN Chairman	<i>Section 40</i> Members were concerned that the terms of “offensive language” and “offensive manner” in section 40(1)(a) had very broad meaning and were matters of personal judgment, and thus requested the provision be revised to confine the scope of “offensive language” and “offensive manner” to those that caused a nuisance to any other person. Chinese version of section 40(1)(d)	Administration/MTRCL to take action as set out in paragraph 2(d) of the minutes Administration/MTRCL to take action as set out in paragraph 2(e) of the minutes
011014 – 011154	MTRCL Chairman	<i>Sections 41-43</i>	
011155 – 011601	MTRCL Mr Albert CHAN Chairman	<i>Sections 44-45</i>	
011602 – 011807	MTRCL Chairman Skyrail	<i>Sections 46-48</i> MTRCL/Skyrail confirmed that there would be sign posts to specify the speed limit of the roads within the CCS area. The speed limit would be about 20 kilometers per hour.	
011808 – 012318	MTRCL Chairman Mr Albert CHAN Skyrail	<i>Section 49</i> <i>Section 50</i> Skyrail confirmed that the policy of the Company was to donate the proceeds from the sale or disposal of unclaimed lost properties to charitable organizations or use the proceeds for charitable purposes, after 6 months of the sale or disposal. MTRCL agreed to reflect this policy by adding a provision after section 50(2).	Administration/MTRCL to take action as set out in paragraph 2(f) of the minutes
012319 – 015330	MTRCL Chairman Mr Albert CHAN Mrs Selina CHOW Administration Skyrail	<i>Sections 51-52</i> Chinese translation of “an official” MTRCL advised that other than those areas of authorization which required the approval of the Director of Electrical and	Administration/MTRCL to take action as set out in paragraph 2(g) of the minutes

Time marker	Speaker	Subject(s)	Action required
		<p>Mechanical Services in accordance with the Aerial Ropeways (Safety) Ordinance, the authorization of officials to enforce the provisions under the Bylaw would be decided by MTRCL and Skyrail. Detailed authorization procedures would be put in place and adequate and relevant training and enforcement guidelines would be provided to officials duly authorized to act on behalf of the Company.</p> <p>Mr CHAN opined that the public and passengers had the right to know which officials were duly authorized to enforce the various provisions of the Bylaw. A transparent authorization system would also facilitate effective enforcement actions and to avoid unnecessary disputes in the course of enforcement actions.</p> <p>The Administration suggested that as in the case of government officials empowered to enforce various statutes, each official duly authorized by the Company to enforce certain provisions of the Bylaw could be issued an authorization card with the scope of authorization specified on the card.</p> <p>Mrs CHOW considered that it was most important for frontline staff who needed to handle cases of contravention of a provision of the Bylaw to be fully trained and fully briefed on the appropriate procedures for handling the cases, while comprehensive internal procedures should be in place to clearly define the scope of authorization for individual officials.</p> <p>After discussion, members requested MTRCL/Skyrail to devise practical means through which –</p> <p>(a) the general public and passengers could easily ascertain which official(s) (say in terms of post or rank) was/were duly authorized to enforce a provision in the Bylaw; and</p> <p>(b) in the course of taking an enforcement action, the relevant official could effectively prove the authorization accorded to him/her to take the enforcement action.</p>	<p>Administration/MTRCL to take action as set out in paragraph 2(h) of the minutes</p>

Time marker	Speaker	Subject(s)	Action required
015331 – 015533	MTRCL Administration Chairman	<i>Sections 52 and 53 Schedule</i>	
<i>Agenda Item II – Any other business</i>			
015534 – 015607	Chairman	Date of next meeting	

Council Business Division 1
Legislative Council Secretariat
3 October 2005