

**立法會**  
**Legislative Council**

LC Paper No. CB(1)957/06-07  
(These minutes have been seen  
by the Administration)

Ref: CB1/BC/3/05

**Bills Committee on Rail Merger Bill**

**Minutes of fourteenth meeting on  
Tuesday, 23 January 2007, at 4:30 pm  
in the Chamber of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)  
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP  
Dr Hon LUI Ming-wah, SBS, JP  
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP  
Hon CHAN Kam-lam, SBS, JP  
Hon LEUNG Yiu-chung  
Hon LAU Kong-wah, JP  
Hon Emily LAU Wai-hing, JP  
Hon Andrew CHENG Kar-foo  
Hon Abraham SHEK Lai-him, JP  
Hon LI Fung-ying, BBS, JP  
Hon Tommy CHEUNG Yu-yan, JP  
Hon Albert CHAN Wai-yip  
Hon WONG Kwok-hing, MH  
Hon LEE Wing-tat  
Hon Jeffrey LAM Kin-fung, SBS, JP  
Hon LEUNG Kwok-hung  
Dr Hon Fernando CHEUNG Chiu-hung  
Hon Ronny TONG Ka-wah, SC  
Prof Hon Patrick LAU Sau-shing, SBS, JP  
Hon KWONG Chi-kin
- Members absent** : Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)  
Hon Albert HO Chun-yan  
Hon LEE Cheuk-yan  
Hon SIN Chung-kai, JP  
Hon LI Kwok-ying, MH, JP  
Hon CHEUNG Hok-ming, SBS, JP  
Hon CHIM Pui-chung  
Hon TAM Heung-man

**Public Officers Attending** : Mr Patrick HO  
Deputy Secretary for the Environment, Transport and Works

Miss Ida LEE  
Principal Assistant Secretary for the Environment,  
Transport and Works

Mr Kady LO Kin-hung  
Chief Inspecting Officer (Railways)  
Environment, Transport and Works Bureau

Mr Andrew TSANG  
Principal Assistant Secretary for Financial Services and the  
Treasury (Acting)

Mr Sunny CHAN Yuen-sun  
Senior Government Counsel  
Department of Justice

Miss Clara LEUNG  
Government Counsel  
Department of Justice

Mr Albert YUEN Lap-pun  
Assistant Commissioner for Transport/Bus & Railway

Miss Alice AU YEUNG  
Principal Transport Officer (Bus and Railway)  
Transport Department

**Attendance by invitation** : MTR Corporation

Mr Andrew McCUSKER  
Operations Director

Mr Wilfred LAU  
Head of Operations

Mrs Miranda LEUNG  
General Manager – Corporate Relations

Ms Maggie SO  
External Affairs & Government Relations Manager

Kowloon-Canton Railway Corporation

Mr Y T LI  
Senior Director, Transport

Mr Raymond WONG  
Senior Corporate Affairs Manager

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

**Staff in attendance** : Ms Connie FUNG  
Assistant Legal Adviser 3

Mr Anthony CHU  
Acting Senior Council Secretary (1)3

Ms Sarah YUEN  
Senior Council Secretary (1)6

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Action

- I Confirmation of minutes and matters arising**  
(LC Paper No. CB(1)772/06-07 - Minutes of meeting on 12 December 2006)

The minutes of the meeting held on 12 December 2006 were confirmed.

- II Integrated Operating Agreement**  
(LC Paper No. CB(1)627/06-07(01) - The Administration's response to issues raised at the meeting on 19 December 2006 on integrated Operating Agreement
- LC Paper No. CB(1)755/06-07(01) Submission from Dr Hon Fernando CHEUNG Chiu-hung on the integrated Operating Agreement
- LC Paper No. CB(1)520/06-07(01) - Information paper on the integrated Operating Agreement provided by the Administration
- LC Paper No. IN03/06-07 - Information note on major changes proposed in the draft integrated Operating Agreement between the MTR Corporation Limited and the Government prepared by Research

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and Library Services Division of the  
LegCo Secretariat)

2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
3. The Bills Committee continued to examine the integrated Operating Agreement (OA) clause by clause.
4. On clause 3.6 on "Monitoring of Environmental Conditions", some members were concerned about how MTR Corporation Limited (MTRCL) monitored the air quality inside train compartments and railway stations, and improvement measures to be taken to provide an improved environment for passengers and station staff. Pending further information to be provided by MTRCL, the Bills Committee would examine the relevant provisions in due course.
5. Regarding clause 4.1 on "Disruptions to Train Services", the Bills Committee had examined the circumstances highlighted in clauses 4.1.1 (a) to 4.1.1(c), under which the post-merger Corporation (MergeCo) should report the disruptions concerned to the Commissioner for Transport (C for T) and the Commissioner of Police. Highlighting the increasing public expectation for higher transparency on railway incidents, some members considered that the notifiable occurrences as set out in the said clauses should also be made known to the public, through the media, immediately after the occurrence of such incidents. The Administration, however, pointed out that for incidents which might affect railway safety, the notification requirements for railway corporations had already been provided for under the relevant Regulations and supplemented by the procedures and arrangements agreed between them and Government. Clause 4.1.1 only served to ensure that MergeCo would inform C for T and Commissioner of Police of service interruptions as described in the clause, so as to enable them to monitor the impact on passengers and to coordinate preparation for emergency support where necessary. Moreover, as the notification requirements under clause 4.1.1 covered every part of the railway and some of which might not be of direct relevance to passengers, the Administration and MTRCL had reservation about notifying the public and the media of all such notifiable occurrences. Further, to announce a service disruption or an anticipated emergency closure of a station or a part of the railway might create confusion to the travelling public if such service disruption or closure could be rectified within a very short period. Some members were not convinced of the Administration's reply and called on the Administration to re-consider extending the notification requirements to include the media as well.
6. Some members requested for the inclusion of specific provisions in the integrated OA, requiring MergeCo to install public toilet facilities for the convenience of the public in MTR stations. The Administration explained that the integrated OA focused on the requirements for safe and efficient operation of railway services and it was not aware of overseas examples where a regulator of railway directed/required the operators to provide public toilets in all railway stations. MTRCL also pointed out that the need for public toilets might not be great, having regard to the fact that journeys on the MTR were short. Moreover, passengers who had an urgent need for toilet facilities while they were travelling on the MTR could contact station staff for

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use of staff toilets. In response to members' enquiry about whether the integrated OA could be amended by the Legislative Council, Assistant Legal Adviser 3 advised that the integrated OA was an agreement to be entered into between the Government and MergeCo. According to established legal principles, only parties to the agreement could amend it. However, the Bills Committee could urge the Administration to incorporate appropriate amendments in the integrated OA where necessary. In this regard, there was a suggestion that clause 4.12.3 be suitably expanded to serve the purpose. There was also call to ensure that the toilets provided would be able to suit the needs of persons with disabilities. The Chairman opined that the issue could also be followed up by the Subcommittee on Matters Relating to Railways.

## Follow-up actions

Admin./  
MTRCL/  
KCRC

7. To address the various concerns expressed at the meeting, the Administration and the two railway corporations were requested to –

- (a) The Administration to discuss with MTRCL the need to state clearly in clause 3.6 of the integrated OA that MergeCo should, apart from monitoring and recording the environmental conditions throughout the enclosed areas of the railway, make improvements in response to relevant complaints according to the Administration's directions where necessary, and to report the outcome of the discussion to the Bills Committee;
- (b) MTRCL was requested to address the emission of foul odour at MTR stations;
- (c) The two railway corporations were requested to address the concerns about excessive noise generated by railway operations and maintenance activities;
- (d) The Administration and MTRCL to provide the definitions of the terms "enclosed areas" as used in clause 3.6. In particular, the Administration should confirm whether Hung Hom Station would be considered an enclosed area;
- (e) The Administration to explain whether there was any difference between the Chinese translations, i.e., "持續" and "連續", of the term "continuous" in clause 3.6;
- (f) The Administration and MTRCL to consider including relevant provisions in the integrated OA to ensure the provision of public toilets at rail stations, particularly existing MTR stations;
- (g) The Administration to examine and report back on the feasibility of amending clause 3.7.1 to ensure that the lighting in areas of the railway premises accessible to the public could meet standards set out in the design guidelines to facilitate access by visually impaired persons;

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- (h) The Administration to consider amending clause 4.1.1 to set out the requirement to notify media;
- (i) The Administration to advise whether the integrated OA contained any provisions which had already been covered in the relevant regulations and by-laws; and
- (j) The Administration to provide in the form of a chart detailing the respective minimum levels of Train Service Arrangements in relation to the matters covered in clauses 4.2.1(a) and 4.2.1 (b).

**III Any other business**

- 8. The Bills Committee agreed to continue examining the integrated OA clause by clause at the next meeting scheduled for Monday, 29 January 2007, from 10:45 am to 12:45 pm.
- 9. There being no other business, the meeting ended at 6:40 pm.

Council Business Division 1  
Legislative Council Secretariat  
14 February 2007

**Proceedings of the fourteenth meeting of  
the Bills Committee on Rail Merger Bill  
on Tuesday, 23 January 2007, at 4:30 pm  
in the Chamber of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
<i>Agenda Item I – Confirmation of minutes and matters arising</i>			
000000 - 000036	Chairman	- Confirmation of minutes of the meeting held on 12 December 2006 (LC Paper No. CB(1)772/06-07)	
000037 - 000450	Chairman Mr LAU Kong-wah Administration	- Opening remarks  - Progress of the preparation of supplementary information on Shatin to Central Link requested at the meeting on 16 January 2007	
<i>Agenda Item II – Integrated Operating Agreement</i>			
000451 - 002200	Chairman Mr LAU Kong-wah Administration MTR Corporation Limited (MTRCL) Mr LEE Wing-tat Mr Andrew CHENG Kowloon-Canton Railway Corporation (KCRC) Ms Emily LAU	- Discussion on clause 3.6 regarding i) its adequacy in ensuring improvement to odour problems, noise nuisances and air quality in the absence of objective standards for measuring the extent of the above problems and of any requirements for the post-merger Corporation (MergeCo) to submit relevant records to the Government ii) the definition of "enclosed areas" and "non-enclosed areas" iii) whether there was any difference between the Chinese translations, i.e., "持續" and "連續", of the term "continuous" in clause 3.6, and actions that could be taken against failure to maintain continuous recording  - Members' suggestion that clause 3.6 be revised to require that MergeCo should where necessary make improvements according to the Administration's directions  - Reference to clauses 4.4 and 4.6	Administration to take necessary follow-up actions
002201 - 003703	Chairman Ms Emily LAU Administration MTRCL Mr Andrew CHENG ALA Mr LAU Kong-wah KCRC	- Discussion on the need and feasibility of providing public toilets at existing MTR stations, particularly in response to the needs of persons with disabilities and the elderly  - Discussion on whether the Bills Committee could amend the integrated	Administration to take necessary follow-up actions

Time marker	Speaker	Subject(s)	Action required
	Dr Fernando CHEUNG Mr WONG Kwok-hing	<p>Operating Agreement (OA) to ensure the provision of public toilets at rail stations (clause 3.8.1 and/or 4.12.3)</p> <ul style="list-style-type: none"> <li>- Discussion on access of the Police to MergeCo's closed circuit television systems (clause 3.8.2)</li> </ul>	
003704 - 005238	Chairman Administration Mr LAU Kong-wah Mr WONG Kwok-hing Mr Andrew CHENG	<ul style="list-style-type: none"> <li>- Discussion on clause 4.1.1 regarding               <ul style="list-style-type: none"> <li>i) the circumstances under which the public and the media should be notified of disruptions to train services</li> <li>ii) the need to clearly specify the timing of notification instead of using the expression "with the least practicable delay"</li> <li>iii) the need to specify the circumstances under which the notification and alert procedures would be reviewed instead of using the expression "from time to time"</li> </ul> </li> <li>- Discussion on clause 4.1.2 regarding               <ul style="list-style-type: none"> <li>i) the circumstances under which MergeCo should consult the Commissioner for Transport (C for T) on new arrangements</li> <li>ii) the need to specify the timing of consultation</li> </ul> </li> </ul>	
005239 - 005412	Chairman Dr Fernando CHEUNG Administration	<ul style="list-style-type: none"> <li>- Discussion on the feasibility of amending clause 3.7.1 to ensure that the lighting in areas of the railway premises accessible to the public could meet standards set out in the design guidelines, so as to meet the needs of the visually impaired persons</li> </ul>	Administration to take necessary follow-up actions
005413 - 005619	Chairman Ms Emily LAU Administration	<ul style="list-style-type: none"> <li>- Discussion on whether and how the notification regime under clause 4.1.1 would apply to intercity passenger trains (clause 17)</li> </ul>	
005620 - 005843	Mr Abraham SHEK Administration	<ul style="list-style-type: none"> <li>- Discussion on the appropriateness of adding the new clause 4.1.2 to impose a new requirement on MergeCo to ensure that C for T would be consulted on new arrangements. In Mr Abraham SHEK's view, this would greatly minimize the flexibility MTRCL presently had in dealing with special circumstances</li> </ul>	



<b>Time marker</b>	<b>Speaker</b>	<b>Subject(s)</b>	<b>Action required</b>
005844 - 011955	Chairman Mr LAU Kong-wah Administration Mr Andrew CHENG MTRCL Mr LEUNG Kwok-hung Mr Albert CHAN	<ul style="list-style-type: none"> <li>- Discussion on clause 4.1.1 regarding               <ul style="list-style-type: none"> <li>i) the need to specify that C for T and the Commissioner of Police should be notified when there were circumstances that would affect the safety of passengers or rail service, even though the above requirement had already been provided for in the relevant regulations</li> <li>ii) the need and appropriateness of notifying the media of the circumstances described under clause 4.1.1(a) to clause 4.1.1(c), particularly anticipated emergency closure of station (clause 4.1.1(b))</li> <li>iii) the need to set up a new authority to monitor MergeCo's operation and to require MergeCo to regularly provide to the authority detailed reports on service disruptions for public perusal</li> </ul> </li> </ul>	Administration to take necessary follow-up actions
011956 - 012225	Chairman Mr Albert CHAN	<ul style="list-style-type: none"> <li>- Mr Albert CHAN's expression of the following views and concerns               <ul style="list-style-type: none"> <li>i) he was opposed to the Bill</li> <li>ii) the by-laws of MTRCL had given MTRCL too much power. For example, passengers were not allowed to drink water in train compartments, they were deprived of the rights to receive public information by the lack of radio reception on board MTR trains</li> <li>iii) there was a need to provide public toilets at rail stations</li> </ul> </li> </ul>	
012226 - 012437	Chairman Mr LEUNG Kwok-hung	<ul style="list-style-type: none"> <li>- Mr LEUNG Kwok-hung's reiteration of the need to alert the public on possible disruptions to train services, to set up an authority to monitor MergeCo's operation, and to require MergeCo to regularly provide detailed service disruption reports to the authority</li> </ul>	
012438 - 013250	Chairman Administration	<ul style="list-style-type: none"> <li>- Briefing on clause 4.2</li> </ul>	
013251 - 014745	Chairman Mr Andrew CHENG Administration Ms Emily LAU	<ul style="list-style-type: none"> <li>- Enquiry and explanation of the Train Service Arrangement Schedule, and request of information on the minimum level of Train Service Arrangements (clauses 4.2.1 and 4.2.2)</li> <li>- Discussion on the expression "specified period from the date of the relevant</li> </ul>	Administration to take necessary follow-up actions

Time marker	Speaker	Subject(s)	Action required
		<p>Material Modification Notice" in clause 4.2.3(b)(ii), particularly on whether the clause should clearly state that the period was 28 days, and whether the period was too long</p> <ul style="list-style-type: none"> <li>- Enquiry and explanation of the meaning of "Material Modification" for which notice had to be given (clauses 4.2.3 and 4.2.5)</li> <li>- Reference to clauses 4.2.5(a) and 4.2.5(b), and discussion on whether amendments to clause 4.1.1 should be introduced to similarly provide objective criteria in the form of time delayed for reporting of disruptions to train services</li> </ul>	
014746 - 015122	Chairman Mr Andrew CHENG Mr LEUNG Yiu-chung MTRCL Ms Emily LAU KCRC	<ul style="list-style-type: none"> <li>- Discussion on the need to set certain objective criteria for evaluating railway cleanliness (clause 4.3)</li> <li>- Discussion on whether passengers should be allowed to eat and drink in train compartments and how to enforce the relevant rules</li> <li>- Enquiry and report on the number of complaints about railway cleanliness</li> </ul>	
<i>Agenda Item III – Any other business</i>			
015123 - 015146	Chairman	- Date of next meeting	