

立法會

Legislative Council

LC Paper No. CB(1)2127/06-07
(These minutes have been seen
by the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

Minutes of twenty-second meeting on Friday, 30 March 2007, at 2:30 pm in the Chamber of the Legislative Council Building

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

- Public Officers attending** :
- Dr Sarah LIAO
Secretary for the Environment, Transport and Works
 - 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 David LAU
Principal Assistant Secretary for Financial Services and the Treasury
 - Mr Sunny CHAN Yuen-sun
Senior Assistant Law Draftsman
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 Limited
 - Mr Leonard TURK
Legal Director & Secretary
 - 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

Ms Sarah YUEN
Senior Council Secretary (1)6

Mr Anthony CHU
Council Secretary (1)2

Action

I Confirmation of minutes and matters arising
(LC Paper No. CB(1)1218/06-07 -- Minutes of meeting on 13 February 2007)

The minutes of the meeting held on 13 February 2007 were confirmed.

II Matters arising from previous meetings

(LC Paper No. CB(1)1220/06-07(01) - The Administration's response to issues raised at previous meetings (Second batch)

LC Paper No. CB(1)1247/06-07(01) - The Administration's response to issues raised at previous meetings (Third batch)

LC Paper No. CB(1)1247/06-07(02) - List of outstanding follow-up actions prepared by the Secretariat)

2. Members noted the following papers tabled at the meeting –

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- (a) The Administration's consolidated response to Dr Hon Fernando CHEUNG Chiu-hung's submissions on the integrated Operating Agreement (IOA); and
- (b) The Aide Memoire provided by the Administration for phased discussion of its response to issues raised at previous meetings.

(Post-meeting note: The above papers were subsequently circulated to members vide LC Paper No. CB(1)1293/06-07 on 2 April 2007.)

3. Mr Abraham SHEK declared interest that he was a member of the Managing Board of the Kowloon-Canton Railway Corporation (KCRC).
4. The Bills Committee deliberated (index of proceedings attached at **Annex**).
5. The Bills Committee started to examine the substantive replies from the Administration to various issues raised by members at previous meetings. The Administration papers (LC Paper No. CB(1)1220/06-07(01) and LC Paper No. CB(1)1247/06-07(01)) were circulated to members on 26 and 28 March 2007 respectively.

Fare adjustment mechanism

6. Members noted that after the Administration had further discussed with MTR Corporation Limited (MTRCL) on reducing the scope of flexibility granted to MergeCo to adjust individual fares (permitted range) from the fare adjustment rate calculated in accordance with the fare adjustment mechanism (FAM), MTRCL would consider carefully the suitable adjustment in response to members' suggestion along the direction of reducing the "±10 percentage points" flexibility. Members urged the Administration to discuss with MTRCL to ensure that there would be a meaningful reduction in the permitted range. Mr Andrew CHENG suggested that the post-merger corporation (MergeCo) should be required to seek the approval of the Chief Executive in Council on the application of different rates within the permitted range to individual fares. The Administration responded that it would not be appropriate to compare railway operation currently enjoying fare autonomy with bus operation as the latter's fare had always been subject to the approval of the Executive Council. The FAM proposal was an improvement as compared with the existing fare autonomy of the railway corporations.

7. Mr WONG Kwok-hing enquired whether the Government would have measures to influence the decision of MergeCo in respect of fare increase in case of special circumstances such as serious economic downturn. The Secretary for the Environment, Transport and Works responded that there was already a mechanism which provided for handling of very special circumstances that affected public interest. Under the Mass Transit Railway Ordinance (Cap. 556), the Chief Executive in Council had power to give direction to MTRCL in relation to any matter concerning the franchise if he considered the public interest so required. There was no specific restriction on the scope of such direction. The above-mentioned Ordinance also

Action

stipulated that the Government was liable to pay compensation to the Corporation for loss or damage sustained by the Corporation arising from its compliance with the direction.

Clause 4.6 – Noise

8. Members noted the Administration's response to members' concerns on the noise emitted due to the railway operations and maintenance activities and were disappointed that the Administration had not put forward any new measures to mitigate the noise impact on residents along the railway corridor. In response, the Administration pointed out that the two railway corporations had implemented different noise mitigation measures. Nevertheless, due to continuous growth in the economy, population and transport demand and the scarcity of land, some residents would still be exposed to railway noise. The Administration considered that it would take time and further study to address the complicated issue of excessive railway noise and undertook to follow up the matter at the relevant Legislative Council (LegCo) Panel(s).

Clause 4.7 – Collection of fares

9. On the suggestion to set a new Performance Requirement/Customer Service Pledge for measuring the accuracy of the add-value machines, Mr Andrew CHENG and Mr LEE Wing-tat were not convinced by the Administration's explanation that it was difficult to identify an objective and reasonable yardstick which would be acceptable to all parties concerned to measure the performance of add-value machines in terms of their accuracy. They suggested that the accuracy could either be measured by reference to the number of transactions or the amount of transactions over their respective total. In response, the Administration said that the Financial Services and the Treasury Bureau was studying the operation of Octopus card together with the add-value machines as a means of electronic money and the issue would be followed up at the relevant LegCo Panel(s).

Follow-up actions

Admin/
MTRCL/
KCRC

10. To address various concerns expressed at the meeting, the Administration and the two railway corporations were requested to follow up on certain matters and provide information as detailed below –

Fare-related matters

- (a) The Administration to consider reducing the flexibility granted to MergeCo to adjust individual fares within the permitted range allowed under the proposed FAM;

Clause 4.4.1 - Passenger Environment

- (b) The two railway corporations to examine possible means to improve the air flow and stuffy environment at platforms of non-enclosed railway stations;

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Clause 4.6 – Noise

- (c) The Administration to provide information on:
 - (i) the noise level of train operation near both ends of non-enclosed railway stations;
 - (ii) the noise level of railway maintenance works;
- (d) The two railway corporations to advise the quantity of their acoustics screens / sheds used for railway maintenance;
- (e) The Administration to consider stipulating in the IOA the requirement for MergeCo to comply with the guidance notes, practice notes and advice as might be issued by the Government from time to time relating to the noise level emitted due to maintenance works; and

Clause 4.13 – Measuring Customer Satisfaction

- (f) KCRC to provide a summary of passengers' views collated from various sources, including customer liaison groups, personal interviews, passenger hotlines, etc, on the way the corporation handled a particular railway incident and the related contingency arrangements.

Admin 11. Separately, the Administration was requested to examine practicable means in the context of the Noise Control Ordinance (Cap. 400) to address the exceedance cases in which noise emitted due to railway operations or maintenance works was above the statutory limit as mentioned by members at the meeting and revert to the relevant panel(s) of the LegCo.

Admin 12. The Administration was also requested to follow up with the relevant Authority on members' request for a review of the existing operational and system procedures for handling add-value transactions through EPS to safeguard the interests of cardholders.

III Any other business

13. The Bills Committee agreed to continue discussion with the Administration and the two railway corporations on the Administration's response to issues raised at previous meetings at the next meeting scheduled for Monday, 16 April 2007, from 8:30 am to 10:30 am.

14. There being no other business, the meeting ended at 6:30 pm.

**Proceedings of the twenty-second meeting of
the Bills Committee on Rail Merger Bill
on Friday, 30 March 2007, at 2:30 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 - 000019	Chairman	- Confirmation of minutes of the meeting held on 13 February 2007 (LC Paper No. CB(1)1218/06-07)	
<i>Agenda Item II – Matters arising from previous meetings</i>			
000020 - 000455	Chairman Administration Mr Abraham SHEK Mr LEE Wing-tat	- Opening remarks - Discussion of Administration's responses to issues raised at previous meetings, with reference to the grouping order as set out in the aide memoire prepared by the Administration	
000456 - 001554	Administration	- Opening speech by the Secretary for the Environment, Transport and Works - Briefing on items 3, 4, 7 to 9 of LC Paper No. CB(1)1220/06-07(01)	
001555 - 002014	Administration Mr LEE Wing-tat	- Briefing on item 10 of LC Paper No. CB(1)1220/06-07(01) by the Administration - Discussion on whether the Ombudsman could still investigate complaints of maladministration by Kowloon-Canton Railway Corporation (KCRC)	
002015 - 002225	Mr LEE Wing-tat Administration MTR Corporation Limited (MTRCL) KCRC	- Discussion on matters relating to escalator accidents (item 3 of LC Paper No. CB(1)1220/06-07(01))	
002226 - 002616	Mr LEE Wing-tat Administration	- Briefing on item 7 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on how the Government would monitor the performance of railway corporations in order to ensure the provision of a reliable and accurate fare collection system	
002617 - 002725	Administration	- Briefing on items 10 and 19 of LC Paper No. CB(1)1247/06-07(01)	

Time Marker	Speaker	Subject(s)	Action required
002726 - 003058	Administration Mr LEE Wing-tat	<ul style="list-style-type: none"> - Briefing on item 22 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on how design of the property development projects to be undertaken by the two railway corporations could be changed to address the issue on "wind shield effect" 	
003059 - 003209	Administration Mr Andrew CHENG	<ul style="list-style-type: none"> - Briefing on item 26 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on possible means to improve the air flow at platforms of non-enclosed railway stations with reference to the cooling devices used by KCRC 	MTRCL to take necessary follow-up action
003210 - 010244	Administration Mr LAU Kong-wah Mr Andrew CHENG Mr LEUNG Yiu-chung Mr LEUNG Kwok-hung KCRC	<ul style="list-style-type: none"> - Briefing on items 28 to 33 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on measures to mitigate the noise emitted from railway operation and maintenance works - Discussion on the noise level at the non-enclosed railway stations - Request for information on the noise level of train operation near both ends of non-enclosed railway stations and the noise level of railway maintenance works 	Administration to take necessary follow-up action
010245 - 010436	Mr CHEUNG Hok-ming KCRC	<ul style="list-style-type: none"> - Discussion on the installation of noise barriers along the East Rail corridor to mitigate noise impact on residents in village houses 	
010437 - 010528	Mr Abraham SHEK	<ul style="list-style-type: none"> - Mr Abraham SHEK's expression of view that noise problems from the operation and maintenance of railways should more appropriate be taken up by other committees 	
010529 - 010821	Mr LAU Kong-wah Administration	<ul style="list-style-type: none"> - Discussion on item 31 of LC Paper No. CB(1)1247/06-07 on the issuance of guidance notes, practice notes and advice relating to the noise level emitted due to maintenance works of railway 	Administration to take necessary follow-up action

Time Marker	Speaker	Subject(s)	Action required
010822 - 011351	Mrs Selina CHOW Mr LEUNG Kwok-hung Chairman	<ul style="list-style-type: none"> - Mrs Selina CHOW's expression of view that noise problems from the operation and maintenance of railways should more appropriate be taken up by other committees - Discussion on the Administration's role to minimize the impact of noise emitted from the operation and maintenance of railways on the public 	
011352 - 011803	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Discussion on item 31 of LC Paper No. CB(1)1247/06-07 on the issuance of guidance notes, practice notes and advice relating to the noise level emitted due to maintenance works of railway 	
001804 - 012222	Administration Mr Andrew CHENG KCRC	<ul style="list-style-type: none"> - Briefing on item 41 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on collating passengers views on contingency measures implemented by KCRC during railway incidents 	KCRC to take necessary follow-up actions
012223 - 012326	Administration	<ul style="list-style-type: none"> - Briefing on items 1, 2 and 5 of LC Paper No. CB(1)1220/06-07(01) 	
012327 - 012448	Administration Mr Andrew CHENG	<ul style="list-style-type: none"> - Briefing on item 6 of LC Paper No. CB(1)1220/06-07(01) by the Administration - Discussion on the revised wordings of clause 4.14 of the integrated Operating Agreement (IOA) 	
012449 - 012516	Administration	<ul style="list-style-type: none"> - Briefing on item 3 of LC Paper No. CB(1)1247/06-07(01) 	
012517 - 013012	Administration Mr Andrew CHENG	<ul style="list-style-type: none"> - Briefing on item 5 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on the necessary amendment to clause 4.8 of IOA to ensure that the post-merger corporation (MergeCo) would take steps to ensure that all smart card handling facilities were at all times accurate 	

Time Marker	Speaker	Subject(s)	Action required
013013 - 013529	Administration Mr Andrew CHENG MTRCL KCRC	<ul style="list-style-type: none"> - Briefing on item 6 of LC Paper No. CB(1)1220/06-07(01) by the Administration - Discussion on the timeframe and the estimated cost for the upgrading works for the entry gates in MTR and KCR stations which would allow the display of the remaining stored value of Octopus cards when passengers entered the gates 	
013530 - 013712	Administration Mr Andrew CHENG	<ul style="list-style-type: none"> - Briefing on items 11 and 12 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on when the new measure that at least 25% of the compartments on each train should be free from broadcast with audio effect would take effect 	
013713 - 014012	Administration Mr WONG Kwok-hing	<ul style="list-style-type: none"> - Briefing on item 14 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on specifying a minimum percentage of area within railway stations for displaying signs and passenger information 	
014013 - 014209	Administration Ms LI Fung-ying MTRCL	<ul style="list-style-type: none"> - Briefing on item 15 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on the display of hotline number near the entry and exit gates in railway stations 	
014210 - 014419	Administration Mr WONG Kwok-hing	<ul style="list-style-type: none"> - Briefing on items 16 to 18, and 21 of LC Paper No. CB(1)1247/06-07(01) 	
014420 - 014957	Administration Mr Andrew CHENG Mr WONG Kwok-hing MTRCL	<ul style="list-style-type: none"> - Briefing on items 23 and 24 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on the requirement for MergeCo to notify the media, in respect of all of the circumstances set out in clause 4.1.1 of IOA 	
014958 - 015130	Administration	<ul style="list-style-type: none"> - Briefing on items 35, 36 and 37 of LC Paper No. CB(1)1247/06-07(01) 	

Time Marker	Speaker	Subject(s)	Action required
015131 - 015408	Administration Mr LAU Kong-wah	<ul style="list-style-type: none"> - Briefing on items 38 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on the requirement for MergeCo to furnish information relating to railway incidents 	
015409 - 020109	Administration	<ul style="list-style-type: none"> - Briefing on items 39, 40, 43 to 47 and 50 of LC Paper No. CB(1)1247/06-07(01) 	
020110 - 021551	Break		
021552 - 022155	Administration Mr LEE Cheuk-yan MTRCL	<ul style="list-style-type: none"> - Briefing on items 1 and 2 of LC Paper No. CB(1)1247/06-07(01) by the Administration - Discussion on reducing the ± 10 percentage points flexibility adjustment for individual fares (the permitted range) from the fare adjustment rate calculated in accordance with the fare adjustment mechanism 	
022156 - 023417	Dr Fernando CHEUNG Administration	<ul style="list-style-type: none"> - Discussion on the benefits of adopting FAM to the general public and how the initial setting of railway fares had reflected the profits from property development in the rail-and-property model 	
023418 - 025509	Mr WONG Kwok-hing Mr LEE Wing-tat Mr Patrick LAU Mr LAU Kong-wah Chairman Administration	<ul style="list-style-type: none"> - Discussion on measures that the Administration could resort to in respect of fare increase under FAM in time of economic downturn which was unacceptable to the general public - Discussion on the need to narrow down the flexibility granted to MergeCo to adjust individual fares within the permitted range so as to minimize the possible impacts on long-haul passengers, particularly those resided in the New Territories where the choice of public transport was limited and the state of market competition was not keen - Discussion on the scope of the fare reduction package 	Administration to take necessary follow-up actions

Time Marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - Discussion on the need to consult the Legislative Council Panel on Transport before fare increase 	
025510 - 032142	Mr Andrew CHENG Mr LEE Wing-tat Administration	<ul style="list-style-type: none"> - Discussion on the difference of the FAM for franchised bus companies and MergeCo - Discussion on the fare concessions and promotional package for passengers travelling on Light Rail 	
032143 - 033244	Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Discussion on empowering the Chief Executive in Council to approve the application of different rates within the permitted range to individual fares 	
033245 - 033401	Mr Abraham SHEK	<ul style="list-style-type: none"> - Discussion on the difference of the fare regulatory framework between railway companies and franchised bus companies whereby the former had fare autonomy 	
033402 - 035019	Administration Mr Andrew CHENG Mr LEE Wing-tat	<ul style="list-style-type: none"> - Briefing on item 4 of LC Paper No. CB(1)1247/06-07(01) - Discussion on introducing a new Performance Requirement/Customer Service Pledge for measuring the accuracy of add-value machines and how to ensure the accuracy of the add-value machines 	Administration to take necessary follow-up actions with the relevant Authority
035020 - 035605	Administration Mr CHEUNG Hok-ming Mr Andrew CHENG	<ul style="list-style-type: none"> - Briefing on items 8 and 9 of LC Paper No. CB(1)1247/06-07(01) - Discussion on the provision of monthly tickets and other new fare concessionary schemes by the railway corporations (item 9) 	
<i>Agenda Item III – Any other business</i>			
035606 - 035738	Chairman	<ul style="list-style-type: none"> - Date of next meeting - Clause-by-clause examination of the Bill at the next meeting 	