

立法會
Legislative Council

LC Paper No. CB(1)580/06-07
(These minutes have been see by
the Administration)

Ref: CB1/BC/3/05

Bills Committee on Rail Merger Bill

**Minutes of seventh meeting on
Tuesday, 14 November 2006, at 4:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon TAM Yiu-chung, GBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
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-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 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
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KWONG Chi-kin
Hon TAM Heung-man
- Members absent** : Hon SIN Chung-kai, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung

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

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

Mr Lewis LAW Chung-ming
Government Counsel
Department of Justice

Attendance by invitation : MTR Corporation Limited

Mr Lincoln LEONG
Finance Director

Mr Eddie SO
Senior Transport Planning Manager

Mrs Miranda LEUNG
General Manager – Corporate Relations

Ms Maggie SO
External Affairs & Government Relations Manager

Kowloon-Canton Railway Corporation

Mr Raymond CHAN
General Manager – Financial Control

Mr Victor LEUNG
Marketing Manager – Service Planning

Mr Jeff LEUNG
External 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

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I Fare-related matters arising from the rail merger

- (LC Paper No. CB(1)258/06-07(01) - The Administration's response to issues raised at the meeting on 2 November 2006 on fare adjustment mechanism and fare reduction proposal
- LC Paper No. CB(1)195/06-07(01) - Information paper on fare adjustment mechanism and fare reduction proposal provided by the Administration
- LC Paper No. CB(1)258/06-07(02) - A list of written questions raised by Hon LAU Kong-wah on fare adjustment mechanism and fare reduction proposal
- LC Paper No. CB(1)258/06-07(03) - Letter dated 9 November 2006 from Hon LAU Kong-wah providing information on the hypothetical changes to railway fares based on the proposed fare adjustment mechanism
- LC Paper No. CB(1)258/06-07(05) - Administration's response to Hon LAU Kong-wah's letter dated 9 November 2006 circulated vide LC Paper No. CB(1)258/06-07(03)
- LC Paper No. CB(1)222/06-07(01) - Speaking note of Mr Lincoln LEONG, Finance Director, MTR Corporation Limited, at the meeting on 2 November 2006
- LC Paper No. CB(1)227/06-07(01) - Chapters 1, 3 and 4 of the Report of the Panel on Transport's Delegation to Study Mass Transit Systems in Overseas Cities dated April 1997

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- RP14/95-96 - Executive summary of the report of the survey on the practice of monitoring of mass transit systems in overseas countries conducted by the Research and Library Services Division in 1996)

Members noted the following papers tabled at the meeting –

- (a) Administration's response to questions raised by Hon LAU Kong-wah as set out in LC Paper No. CB(1)258/06-07(02) (LC Paper No. CB(1)258/06-07(04));
- (b) Speaking note of Mr Lincoln LEONG, Finance Director, MTR Corporation Limited (MTRCL), at the meeting; and
- (c) Illustration of the fare adjustments within ± 10 percentage points from the overall fare adjustment rate provided by MTRCL.

(Post-meeting note: The above papers were issued to members vide LC Paper No. CB(1)289/06-07 dated 15 November 2006.)

- 2. The Bills Committee deliberated (index of proceedings attached at **Annex**).
- 3. Regarding the proposal to allow the post-merger Corporation (MergeCo) to adjust individual fares within ± 10 percentage points (the permitted range) from the overall fare adjustment rate under the proposed fare adjustment mechanism (FAM), there were concerns about the uncertainty created by the proposed flexibility and how it would be seen as fair and acceptable to the travelling public to apply different rates of fare increase/decrease for different fares within the railway network, particularly on grounds of their respective state of competition along the railway corridor. Views had been expressed that it would be unfair if some passengers who had already suffered from inadequate public transport services had to bear a higher rate of fare increase due to insufficient competition along the railway corridor, whereas some other passengers who were currently enjoying a wider choice of public transport services could enjoy a higher rate of fare reduction in the end due to keen competition from other public transport modes. Worries had also been expressed that the fare adjustment process would no longer be objective and transparent. In the extreme case, the gap between individual fares after applying the flexibility of ± 10 percentage points from the overall fare adjustment rate could be as high as 20%. This would give rise to social discord and it was also unfair to allow MergeCo to compete with other public transport services through such predatory marketing practices. Concern was also expressed about the resulting monopolistic position of MergeCo. Given that the FAM for franchised buses did not provide for such flexibility, views had been expressed that MergeCo should not be granted the same so as to avoid unfair competition, bearing in mind railway corporations already enjoyed the property

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development rights granted by the Government. Suggestions had been made for the Administration to consider confining the extent of the flexibility granted to MergeCo for adjusting the rate of fare increase/decrease for individual fares beyond the overall adjustment rate to ± 5 percentage points. The Administration/MTRCL's responses were that the proposed flexibility already represented a restriction over MergeCo's flexibility in future when compared to the full discretion currently enjoyed by the two railway corporations in deciding on their individual fares under fare autonomy, that there was in existence a mechanism for franchised bus companies to adjust their individual fares at different rates, and that there was no question of predatory market practices because MergeCo would be subject to fierce competition from other road-based transport modes.

4. The Bills Committee had also examined the hypothetical changes of railway fares over the past periods by applying the FAM formula. Views had been expressed that the proposed FAM could not bring about adequate benefits to the travelling public. In some cases, the rate of fare increase calculated under the FAM was even higher than the actual fare increase. Further, during the deflationary period, railway fares under the FAM had not been significantly reduced. The Administration's views were that any objective comparison should not be conducted based on data from selective years only and it was not appropriate to assume that the FAM had applied in the past when in fact it was intended to regulate fare adjustments in the future, and that even if one was to refer to the comparison of hypothetical results for the past 22 years, the comparison results had shown that the FAM would have generated comparable or even better results than the actual from passengers' perspective.

5. The Bills Committee also took note of some members' suggestions that railway fares should be subject to the approval of the Legislative Council (LegCo). To this end, Mr LEE Cheuk-yan indicated that he would consider moving a Committee Stage amendment to the Bill to the effect that future fare adjustment of railway fares by MergeCo should be approved by LegCo. On fare regulation, views had been expressed that MergeCo should consider using profits from property development to set up a fare stabilization fund to moderate the rate of fare increase. Indeed, given the past deflation, railway fares should have been reduced, and hence, the fare reduction package should not be considered in the context of the rail merger. There were also worries about the gradual cancellation of interchange concessions which would offset the benefits associated with the provision of the fare reduction package. The Administration and MTRCL reiterated that the proposed fare reduction package was made possible only because of the synergies to be achieved through implementation of the merger.

Admin 6. The Administration was requested to provide further information on the following –

- (a) detailed breakdown of synergies of the rail merger and the basis of calculation; and

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- (b) details of previous cases whereby railway corporations, bus companies or green minibus operators set their individual fares at rates different from the overall fare adjustment rates.

II Any other business

Closed meeting on 24 November 2006

7. The Chairman informed members that as agreed at the meeting on 5 October 2006, she had liaised with the Administration to see whether it could provide in confidence the requested information on valuation of the property package of the rail merger proposal, which the Administration had refused to provide before, claiming that commercially sensitive information was involved and the disclosure thereof might prejudice public interests. Members noted that the Administration had recently agreed to brief the Bills Committee (BC) on some of the requested information at a closed meeting, which would be scheduled for Friday, 24 November 2006, from 3:00 pm to 4:00 pm.

8. Mr LEE Wing-tat sought to ascertain the amount and nature of the information to be provided, and indicated opposition to the scheduling of a closed meeting to receive the briefing. Instead, an open meeting should be held and, where certain information was genuinely confidential, the Administration should explain why such information could not be provided at the meeting. Mr Andrew CHENG also expressed reservation about the scheduling of a closed meeting to receive the briefing, pointing out that closed meetings should be held only where privacy issues or judicial proceedings were involved. Moreover, if the BC agreed to be briefed on the requested information at a closed meeting, and members subsequently concluded that the development rights under the property package were appropriately priced, they would not be able to account for the conclusion. He further advised that Members of the Democratic Party (DP) would consider moving a motion at the meeting on 30 November 2006 to invoke the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to request the parties concerned to produce the information to the BC for consideration.

9. Mr Abraham SHEK declared interests as a member of the Managing Board of Kowloon-Canton Railway Corporation (KCRC). He indicated support for scheduling a closed meeting to enable the Administration to brief members on the valuation and pricing of the property package of the rail merger proposal and other related issues, which were price sensitive and should be kept confidential given the listed status of MTR Corporation Limited (MTRCL). In his view, by agreeing to brief members on the above information at a closed meeting, the Administration had indeed already taken a step forward in co-operating with the BC.

10. Mr Jeffrey LAM also indicated support for the scheduling of the 24 November closed meeting, pointing out that it might not be appropriate to request a party to

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disclose at an open meeting information which it had agreed with another party to keep confidential lest the disclosure might harm the parties concerned. In his view, the scheduling of the closed meeting to enable the Administration to disclose information necessary to assure members could expedite the progress of the BC's scrutiny work.

11. While agreeing that meetings of LegCo should be open as far as possible, Mr CHAN Kam-lam accepted that a closed meeting would inevitably need to be held to examine commercially sensitive information. In his view, if the information provided was found to be disclosable, discussion at the closed meeting might be disclosed subsequently. However, should such information relate to the valuation of individual property sites not yet tendered, and its disclosure might cause disadvantage to MergeCo during the future tender process, care should be exercised in determining whether the information should be disclosed.

12. Ms Emily LAU shared Mr CHAN Kam-lam's views. She however opined that an understanding should be reached with the Administration before the 24 November meeting that should any of the information provided at the meeting be found to be disclosable, discussion at the closed meeting might be disclosed subsequently, particularly if members concluded after the meeting that the development rights under the property package were appropriately priced, and had to account for the conclusion. Nonetheless, she also opined that such understanding apart, proper measures should be taken to ensure members would keep the commercially sensitive information gathered at the meeting strictly confidential if justified.

13. Referring to the willingness of the Administration and MTRCL to provide financial information on the Airport Core Programme (ACP) projects, Mr Albert CHAN cast doubt on the need to keep information relevant to the valuation of the property package confidential. He could not accept that the BC should agree to schedule a closed meeting without first obtaining more details about the information to be provided to ascertain the need to be briefed on it in a closed meeting.

14. Mr Albert HO reiterated his earlier expressed view that project estimates should not be treated as confidential information. In fact, estimates of the Housing Authority's property development projects and the ACP projects had been disclosed in the past. He opined that the requested information should be made available to the BC to enable it to make an informed decision on whether to support the Bill, and hence to indirectly approve the merger deal, which was essentially a commercial transaction. In this connection, he considered it undesirable to receive the requested information in a closed meeting because firstly, the public would not be able to know the nature of the information and hence would not be in a position to monitor whether the BC had made the correct decision. Secondly, the information might inevitably be leaked out in future and the BC might be held accountable. Thirdly, there might be a need to seek expert advice in understanding the information or to explain the BC's decision to the public. He therefore could not accept that a closed meeting be held to receive the information.

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15. The Chairman urged members to examine the proposal to hold the 24 November closed meeting objectively, and to refrain from making various assumptions about the information to be provided thereat.

16. Mrs Selina CHOW pointed out that closed meetings of LegCo had been held from time to time in the past where justified. In her view, the Administration's refusal to provide the requested information in public might safeguard rather than affect public interests, especially as commercially sensitive information might affect the share prices of MTRCL. Given that the Government was not willing to provide the requested information unless in camera, the BC should accept the arrangement so as to gain access to the information. She also emphasized that while follow-up actions could be taken on the information as appropriate, once the BC had agreed to the provision of the information in camera, efforts should be made to remind members to keep the information confidential.

17. Mr Jeffrey LAM reiterated the importance of honouring an agreement in the commercial world, and hence the need to make arrangements to enable the Administration to honour its undertaking to MTRCL to keep the requested information confidential. He therefore also opined that if the BC agreed to the provision of the requested information at a closed meeting, it should not disclose the information thereafter even though it might not agree that it was commercially sensitive.

18. The Chairman put to vote the Administration's proposal to provide the requested information at a closed meeting. Mr LEE Wing-tat clarified that DP's decision on whether to invoke the powers under Cap. 382 would not be affected by the voting result.

19. The proposal was put to vote. Of the members present, eleven voted for the proposal and eight voted against. The Chairman declared that the proposal was endorsed. She also directed the Secretariat to remind members to keep the relevant information gathered at the meeting strictly confidential when issuing notice of meeting to members.

Meeting on 30 November 2006

20. In consideration of the number of questions and concerns expressed on fare-related matters arising from the merger at this meeting, the Chairman decided that the discussion on the matters should be continued at the ninth Bills Committee meeting scheduled for Thursday, 30 November 2006, at 10:45 am to 12:45 pm. Addressing Mr LEE Wing-tat's concern about the meeting schedule up to March 2007, which according to him was too tight, the Chairman also directed that the schedule be re-examined at the 30 November meeting.

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

**Proceedings of the seventh meeting of
the Bills Committee on Rail Merger Bill
on Tuesday, 14 November 2006, at 4:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 - 002211	Chairman Mr LEE Wing-tat Mr Andrew CHENG Mr Abraham SHEK Mr Jeffrey LAM Mr CHAN Kam-lam Ms Emily LAU Mr Albert CHAN Mr Albert HO Mrs Selina CHOW	- Discussion and voting on the Administration's proposal to provide the requested information on valuation of the property package of the rail merger proposal at a closed meeting scheduled for 24 November 2006	
<i>Agenda Item I – Fare-related matters arising from the rail merger</i>			
002212 - 004005	Chairman Administration MTR Corporation Limited (MTRCL)	- Opening remarks - Briefing by the Administration and MTRCL	
004006 - 004558	Chairman Mr WONG Kwok-hing Administration MTRCL	- Mr WONG Kwok-hing's concern that with the flexibility proposed to be granted to the post-merger Corporation (MergeCo) to adjust railway fares within the permitted range (the proposed flexibility), MergeCo could maximize profits by increasing fares for journeys with high patronage while reducing fares for journeys with low patronage. As a result, passengers would be treated unfairly and could not benefit from the FAM - Administration's explanation that i) the adjustment rate of weighted average of all individual fares must be equal to the overall fare adjustment rate derived from the FAM formula and hence would be revenue neutral. MergeCo would not be able to gain extra benefit by exercising the proposed flexibility ii) MergeCo was required to obtain certifications from two independent experts regarding the details of individual fare adjustments to ensure compliance with the FAM before the fare adjustments could take effect - MTRCL's explanation that in the face of keen competition from other public	

Time marker	Speaker	Subject(s)	Action required
		transport services, MergeCo had to retain certain flexibility in adjusting individual fares to cope with market changes	
004559 - 004949	MTRCL	<ul style="list-style-type: none"> - Briefing by MTRCL on three examples tabled at the meeting to illustrate fare adjustments within the permitted range (paper tabled at the meeting and subsequently issued to members vide LC Paper No. CB(1) 289/06-07(02) on 15 November 2006) 	
004950 - 005726	Mr LAU Kong-wah Administration	<ul style="list-style-type: none"> - Mr LAU Kong-wah's concerns that <ul style="list-style-type: none"> i) the proposed flexibility might result in a higher rate of increase for long-distance journeys, unpopular journeys and monopolistic journeys such as those to the North District ii) the FAM would benefit MergeCo but not the travelling public as shown by the comparisons of the hypothetical and actual fare adjustment rates provided in Appendix II to LC Paper No. CB(1)258/06-07(01) (the comparisons) iii) the only merit of the FAM was certainty. However, with the granting of the proposed flexibility to MergeCo to adjust individual fares within the permitted range, this merit would no longer exist - Administration's explanation that <ul style="list-style-type: none"> i) apart from maintaining railway fares at reasonable levels, it was also important to ensure that rail service was sustainable and satisfactory ii) it was not appropriate to artificially apply the fare adjustment formula retrospectively as the circumstances in the past were different from those under the proposed merger, and the FAM was intended to regulate fare adjustments in future. It was also not proper to assume that deflation that occurred during the past few years would not recur iii) it was not fair to judge the FAM by looking at the comparison of the hypothetical and actual fare adjustment rates of only certain years. Rather, the focus should be 	

Time marker	Speaker	Subject(s)	Action required
		<p>on the long-term benefit of the FAM which provided a clear basis for future fare adjustments and fare stability to the travelling public</p> <p>iv) currently both MTRCL and Kowloon-Canton Railway Corporation (KCRC) had fare autonomy. The merger discussions with the railway corporations had, among other things, resulted in their agreement to adopt a more objective and transparent FAM as part of the overall merger deal. Future fares would go down or go up according to a fare adjustment formula that was linked to the rates of change of the consumer price index and a wage index. Such regime was commonly adopted elsewhere for regulation of railway fares and was considered to be acceptable. In economic terms, the effect of the FAM was that there would not be any increase of railway fares in real terms</p>	
005727 - 010233	Chairman Mr LEE Wing-tat Administration MTRCL	<p>- Mr LEE Wing-tat's views that</p> <p>i) the Democratic Party (DP) considered that the Government should consider using part of the profits from property development to set up a fare stabilization fund in recognition that the land premiums for individual sites under the property package were set on negotiated terms but not on market terms derived from tenders which could then reflect the true values of the sites</p> <p>ii) the problem with the proposed flexibility was that it enabled MergeCo to unfairly manipulate at the expense of passengers its fare structure as individual fares would be revised in accordance with the respective state of competition along the railway corridor. Not only would such drastic fare differences lead to social discords, but it was also unfair to allow MergeCo to compete with other public transport services through such predatory marketing practices</p> <p>- Administration's explanation that the</p>	

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		<p>proposed flexibility was intended to enable MergeCo to adjust individual fares in response to changes in the market conditions and operating environment such as movement of population clusters and activity centres, and optimize the use of the railways and hence public resources</p> <ul style="list-style-type: none"> - MTRCL's assurance that the fare adjustments shown in example 3 were extreme cases which were prepared for illustration purpose. Indeed, railway fares would be maintained at a reasonable level to ensure public acceptability; otherwise its passengers would switch to other modes which would not be in MergeCo's own interests. Adjustments to individual fares in response to market changes had been implemented by the company in a number of years in the past such as 1984 	
010234 - 010809	Chairman Mr Andrew CHENG Administration	<ul style="list-style-type: none"> - Mr Andrew CHENG's views that <ul style="list-style-type: none"> i) it would be unfair to grant MTRCL the proposed flexibility to enable MergeCo to react to changing market conditions flexibly while its competitors the franchised bus companies were not given similar flexibility ii) it would be unfair that long-haul passengers who were already suffering from limited choice of public transport services were to be penalized iii) unlike overseas cities, future fare adjustments under the FAM would not be subject to approval by any authority iv) profits from property development should be used to moderate the rate of increase v) there was a need to supplement details of the synergies of the rail merger and the basis of calculation - Administration's explanation that <ul style="list-style-type: none"> i) subject to compliance with the approved fare tables for the relevant bus companies and agreement with the Government, local franchised bus companies also enjoyed flexibility in setting and adjusting 	

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		<p>their individual fares</p> <ul style="list-style-type: none"> ii) train operators in Britain were permitted to increase individual fares by different rates subject to a cap at the overall fare adjustment rate plus 5% iii) relevant property profits had already been taken into account when the railway corporations set the initial fares of the relevant new railway iv) the proposed FAM would have the effect of stabilizing fares by comparison with the existing fare autonomy of the railway corporations and by linking future fare adjustments to the rate of changes of two objective and transparent indices 	
010810 - 011408	Dr Fernando CHEUNG Administration	<ul style="list-style-type: none"> - Dr Fernando CHEUNG's expression of concerns that <ul style="list-style-type: none"> i) why the FAM adopted by MergeCo would be different from that applicable to franchised bus companies ii) disagreement to the findings that the FAM would have resulted in fare increase rates comparable to the actual, bearing in mind the base fare had been reduced prior to the calculation of the hypothetical rate of adjustment under the FAM which had resulted in a lower rate of fare increase over the relevant time periods iii) railway fares should have been reduced taking into account the past deflation iv) it was premature for MergeCo to reject the claim for the provision of concessionary fares to persons with disabilities (PwDs) prior to the completion of the survey to assess the travelling pattern of PwDs (the Survey). Subsidy granted by the Government to MTRCL in the form of property development rights should be put to use for the benefit of PwDs as well - Administration's explanation that <ul style="list-style-type: none"> i) the proposed flexibility should be compared with the fare autonomy currently enjoyed by the railway corporations, which had full 	

Time marker	Speaker	Subject(s)	Action required
		<p>flexibility in adjusting individual fares at different rates, while the FAM would restrict MergeCo's flexibility to the permitted range. Moreover, the proposed flexibility was commonly adopted elsewhere. Subject to the compliance with the approved fare tables for the relevant bus company and agreement with the Government, local franchised bus companies also enjoyed flexibility in setting and adjusting their individual fares</p> <p>ii) on the first day of the rail merger, railway fares would be reduced according to the fare reduction package made possible by synergies to be achieved as a result of the rail merger. As such, the fare reduction assumptions made when preparing the comparisons were justified</p> <p>iii) it was hoped that the Survey could provide public transport operators with more reliable information to facilitate their assessment of the financial impact of the proposed fare concessions to PwDs, thus encouraging them to provide the concessions</p>	
011409 - 012009	Mr Albert HO Administration MTRCL	<p>- Mr Albert HO's views that</p> <p>i) KCRC could not be said to be enjoying fare autonomy because, with Government as its sole owner and hence very much a public body, KCRC had to respond to public needs when adjusting its fares</p> <p>ii) whether the FAM was fair had to be examined in the light of its starting base fares, whereon views were diverse</p> <p>iii) the overall fare adjustment rate under the FAM should be the ceiling of adjustment. It was unacceptable that MergeCo be granted the proposed flexibility to enable it to compete unfairly with other public transport operators to secure monopoly. MergeCo should be encouraged to map out promotional measures to compete with other public transport services fairly</p>	

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		<ul style="list-style-type: none"> - Administration's explanation that <ul style="list-style-type: none"> i) it was a statutory requirement for KCRC to operate under prudent commercial principles. Even as its sole owner Government could not intervene by giving direction to KCRC lest it would have to compensate KCRC for any loss so incurred ii) the imposition of a cap on the overall fare adjustment rate might adversely affect the financial situation of MergeCo and, in turn, give rise to the need for Government subsidy iii) according to the views expressed by academics who attended the Bills Committee (BC) meeting on 28 October 2006, the rail merger would not create monopolistic problems. After the rail merger, MergeCo would continue to face intense competition from other modes of public transport, in particular franchised buses iv) unlike other public transport operators, rail operators were subject to considerable constraints when competing for business because the rail alignment and locations of the railway stations were fixed. As such, there was a need to accord rail operators certain flexibility to enable them to react to market conditions more effectively through flexibility in individual fare adjustments v) as part of the overall merger package, the existing fare autonomy of the two railway corporations would be replaced with the FAM upon implementation of the rail merger, under which fares of MergeCo would be adjusted according to a direct-drive formula. In the eyes of some minority shareholders of MTRCL, the FAM was a great compromise by MTRCL as there was no compensation from Government to MTRCL for such a major change - MTRCL's supplement that some utility companies and bus companies and green minibus operators also enjoyed 	

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		flexibility in adjusting individual fares at rates different from their overall fare adjustment rates	
012010 - 012510	Chairman Mr LEE Cheuk-yan Administration	<p>- Mr LEE Cheuk-yan's views that</p> <ul style="list-style-type: none"> i) the granting of the proposed flexibility should be examined with regard to the need to sustain rail service, its usefulness in responding to public needs and maintaining a harmonious society rather than on strengthening the relative position of MergeCo to compete with its counterparts in the transport market. In his view, its introduction was politically unwise because the different rates of fare increase/decrease for different fares within the railway network were unfair and would lead to social discord. It was also dangerous not to consider public affordability and public sentiment when adjusting fares, as could be seen in the comparisons, fares could be adjusted upwards in 1998 and 1999 despite the then Asian financial turmoil ii) in the view of the Hong Kong Confederation of Trade Unions, rail service should be operated by the Government on a non-profit-making basis. He would examine whether Committee Stage amendments could be introduced to the Bill to the effect that railway fares would be subject to the approval by LegCo. Should the amendments be passed, there might be a need for Government to buy out MTRCL's minority shareholdings iii) it was regrettable that the two railway corporations were reluctant to reduce railway fares on grounds that they were operated in accordance with prudent commercial principles, but at the same time, they were asking for Government's subsidy in the form of property development rights on the ground that railway projects were built for the interests of the public 	

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012511 - 013142	Ms Emily LAU Chairman Administration MTRCL	<ul style="list-style-type: none"> - Ms Emily LAU's views that <ul style="list-style-type: none"> i) A proper balance should be struck to enable MergeCo to continue to deliver a quality service in a sustainable manner ii) there was a need to provide a detailed breakdown of the synergies of the rail merger and the basis of calculation iii) there was also a need to provide details of previous cases whereby railway corporations, bus companies or green minibus operators set their individual fares at rates different from the overall fare adjustment rates iv) the proposed flexibility granted to MergeCo was the greatest among all overseas examples quoted. Having regard that current railway fares were high, there was a need to reduce the scope of the proposed flexibility or subject fare adjustments to certain degree of control to ensure fairness. More overseas examples might need to be provided to justify the proposed flexibility - MTRCL's confirmation in response to the Chairman that in Britain train operators were permitted to increase their individual fares by different rates subject to a cap at the overall fare adjustment rate plus but not minus 5% 	<p>Administration to take necessary follow-up action</p> <p>Administration to take necessary follow-up action</p>
013143 - 013737	Chairman Mr LEUNG Yiu-chung Administration	<ul style="list-style-type: none"> - Mr LEUNG Yiu-chung's query of how, when the Survey had not been completed yet, the Administration could conclude that if it made it mandatory for public transport operators to offer any particular fare concession to PwDs, the income of the operators would drop which would pose pressure for fare increase - Mr LEUNG Yiu-chung's view that it was unfair to passengers that MergeCo would reduce the fares for certain journeys due to competition factor but adjust upwards the rate of fare increase for the other journeys, thereby adversely affecting passengers of the latter journeys, who had nothing to do with the competition factor 	

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		<ul style="list-style-type: none"> - Administration's explanation that the proposed flexibility should not be judged merely from the passengers' perspective of keeping the fares at the lowest possible levels but also the need to enable MergeCo to respond to market changes and optimize the use of the railways, which were public resources, for the overall benefits of the community. Moreover, competition would help safeguard public interests, and whether rail service was satisfactory should not be judged from the fare level only 	
013738 - 014319	<p>Chairman Mr KWONG Chi-kin MTRCL Administration</p>	<ul style="list-style-type: none"> - Mr KWONG Chi-kin's views that <ul style="list-style-type: none"> i) he had yet to be convinced of the reasonableness of the proposed flexibility. While certain flexibility was necessary to enable MergeCo to compete effectively with other public transport services, the permitted range, which could mean that the differential between individual fares could be as great as 20% in the extreme case, was too wide to be fair and acceptable. Any operational deficits should be covered by property profits instead of cross-subsidy ii) given MTRCL's earlier assurance that significant changes to fares would not be made, there was room to reduce the proposed scope of flexibility granted to MergeCo iii) previous cases whereby railway corporations set their individual fares at rates different from the overall fare adjustment rates should be provided - MTRCL's explanation that ± 10 percentage points from the overall fare adjustment rate was the permitted range only and individual fares might not be adjusted up to the 10 percentage points above the overall fare adjustment rate. Competition, economic conditions and value for money of rail service were the key factors that would be taken into account in finalizing adjustments of individual fares in future. Previous cases in 1984 and 1989 where individual MTR fares were in effect 	

Time marker	Speaker	Subject(s)	Action required
		<p>adjusted more than ± 10 percentage points from the overall fare adjustment rate were given. It was further pointed out that there were also such cases involving franchised buses</p>	
014320 - 014846	Chairman Mr Albert CHAN MTRCL	<ul style="list-style-type: none"> - Mr Albert CHAN objected to the granting of the proposed flexibility to MergeCo because <ul style="list-style-type: none"> i) given the monopoly to be built up by MergeCo after the merger, the proposed flexibility would seriously affect the interest of passengers ii) it was questionable whether the FAM could result in benefits to the travelling public. Notwithstanding the cumulative deflation over the past few years as shown in Float 1 of Appendix II, the rate of fare decrease between 1996 and 2005 was only in the region of -0.5% - In response to Mr CHAN's additional question on the treatment of existing interchange concessions offered by the two railway corporations under the FAM, MTRCL's confirmation that the FAM would not cover these concessions as they were time-limited promotional measures but it was envisaged that the concessions would not be cancelled unless insufficient passengers were generated - Mr CHAN's concern that the benefits of the travelling public from the fare reduction package would be offset by the gradual cancellation of interchange concessions, which might in effect amount to fare increases, especially as KCRC presently offered many interchange concessions, such as feeder bus services - MTRCL's confirmation that free Light Rail connection to or from West Rail and free feeder bus services in Tuen Mun would continue to be provided upon the merger 	
014847 - 015401	Mr LEUNG Kwok-hung	<ul style="list-style-type: none"> - Mr LEUNG Kwok-hung's call upon members to maintain their stance as stated at this meeting and oppose to the rail merger 	

Time marker	Speaker	Subject(s)	Action required
		<ul style="list-style-type: none"> - Mr LEUNG's views that <ul style="list-style-type: none"> i) the problem with the rail merger was that the wholly Government-owned KCRC was to be merged with MTRCL, a listed company, which would inevitably give rise to concerns about subsidy of the rail projects by Government. As such, Government should buy out MTRCL's minority shareholdings before proceeding further with the rail merger ii) MergeCo should not be granted the proposed flexibility under the pretext of competition because property development rights were already granted to railway corporations to help bridge the funding gap for new railway projects, and such subsidy was not available to other public transport operators. Rail service had thus already been given an edge when competing with other public transport services iii) while in overseas countries fare adjustments of train services might not be subject to control, their political situations were different and direct comparison should not be made with them. Moreover, as shown in the example of Britain, rail service should not be commercially operated without Government monitoring. In fact, it was wrong to assume that commercially operated rail service would be better than that publicly run 	
015402 - 015709	Miss TAM Heung-man MTRCL	<ul style="list-style-type: none"> - Miss TAM Heung-man's questions that <ul style="list-style-type: none"> i) the fare reduction package should be expanded to cover the whole railway network in the territory ii) whether consideration could be given to narrowing the permitted range from ± 10 percentage points from the overall fare adjustment rate to ± 5 percentage points - MTRCL's explanation that <ul style="list-style-type: none"> i) most passengers of Light Rail were already enjoying free Light Rail connection to or from West Rail and such concessionary service would 	

Time marker	Speaker	Subject(s)	Action required
		continue after the rail merger ii) Miss TAM's proposal in ii) was noted	
<i>Agenda Item II – Any other business</i>			
015710 - 020050	Mr LEE Wing-tat Chairman Ms Emily LAU	- Discussion on the meeting schedule	
	Chairman	- Meeting arrangements	

Council Business Division 1
Legislative Council Secretariat
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