

Bills Committee on Rail Merger Bill
Administration's Response to the Follow-up to Bills Committee Meetings

Issue	Response
(A) Fare Adjustment Mechanism (FAM)	
<p>(1) The Administration was requested to consider reducing the scope of flexibility granted to MergeCo to adjust individual fares from the fare adjustment rate calculated in accordance with the fare adjustment mechanism (FAM).</p> <p>(2) In view that the agreed formula for annual adjustments in fare would be applied automatically, the Administration was requested to consider the following alternatives to fine tune the proposed FAM:</p> <ul style="list-style-type: none"> • to set up a fare stabilization fund to moderate the rate of fare increase under the FAM by using profits from property developments; • to empower the Chief Executive in Council or the Legislative Council (LegCo) to have the ultimate power to determine the rate of fare increase or decrease under the FAM; or • to require MergeCo to consider other factors such as prevailing economic conditions, its operating environment and public affordability before determining the rate of fare increase or decrease under the FAM. 	<ul style="list-style-type: none"> • If the rail merger is implemented, the FAM will replace fare autonomy of the railway corporation. Under the FAM, adjustments of railway fares in future will be linked to changes of the consumer price index and a wage index and the adjustment rate will be deducted by a productivity factor of 0.1% per annum. As such, railways fares can go down as well as go up. This mechanism is objective and transparent. • At our meetings with the Bills Committee in November and December 2006 and in our written responses vide LC Papers Nos. CB(1)258/06-07(01), CB(1)258/06-07(04) and CB(1)383/06-07(01), detailed explanations were given on the need and justifications for providing MergeCo with limited flexibility to adjust individual fares at different rates. The main points include – it is not practicable to require MergeCo to adjust all individual fares by the same overall fare adjustment rate across the board; there is flexibility for adjusting individual fares at different rates by railway corporations in some overseas cities as well as by franchised bus companies in Hong Kong; the proposed limit of deviation by not more than ± 10 percentage points from the overall fare adjustment rate under the FAM (the permitted range) already represents considerable constraint on MergeCo's flexibility when compared with the existing fare autonomy of the two railway corporations; and there is already safeguard in the FAM to ensure that MergeCo will not obtain additional benefits by applying the flexibility. • After further discussion with MTRCL, the corporation indicates that they would consider carefully how to suitable adjustment in response to the relevant suggestion along the direction of reducing the '± 10 percentage points' flexibility.

Issue	Response
	<ul style="list-style-type: none"> • At previous Bills Committee meetings and in our written response referenced LC Paper No. CB(1)258/06-07(01), CB(1)258/06-07(04), CB(1)442/06-07(01) and CB(1)483/06-07(02), it was explained that property profits have been reflected in the initial fare setting process and thus should not be taken into account in subsequent on-going fare adjustments, and given that the profits from property developments arising from the application of the rail-and-property model for railway development have been taken into account in the setting of the initial fares of the relevant railways, using such profits to set up a fare stabilization fund under the FAM would have the effect of double-counting the property development profits. • MTRCL reiterated that it is a drastic change from fare autonomy to price regulation by the proposed FAM. The corporation does not agree to subject future fare adjustments to the approval of the Chief Executive-in-Council or LegCo. This will defeat the principle of introducing a direct-drive fare adjustment formula for replacing the fare autonomy. Fare levels after the rail merger would be adjusted according to a formula which is linked to changes in consumer price index and wage index as well as a pre-determined productivity factor. These indices are objective and transparent. In general, this formula can reflect economic conditions in Hong Kong and affordability of the public. The addition of other factors for consideration could be inconsistent with the regulatory approach of adopting a direct-drive fare adjustment formula. MTRCL indicated that they have introduced a number of fare concession schemes in past years and MergeCo would continue to consider introducing or revising fare concession schemes at a suitable time taking into account factors such as economic conditions, etc. • There is already a provision in the draft IOA requiring MergeCo to notify the Panel on Transport of LegCo in writing before implementation of fare adjustment. MTRCL advised that they would attend meetings of the Panel on Transport of LegCo to answer questions on fare adjustment.

Issue	Response
(B) Integrated Operating Agreement	
(i) Collection of Fares (Clause 4.7) and Ticket Handling (Clause 4.8)	
(3) The Administration to consider amending clause 4.7 to the effect that MergeCo should provide and maintain adequate staff and a reliable ticketing system for the efficient, effective and accurate collection of fares.	<ul style="list-style-type: none"> The relevant clause will be amended to require MergeCo to establish and maintain effective procedures to verify and ensure that the ticketing system is accurate for collection of fares.
(4) The Administration to improve the wording of the clause to the effect that MergeCo should also provide and maintain accurate add-value machines and to introduce a new Performance Requirement/Customer Service Pledge for measuring the accuracy of the add-value machines.	<ul style="list-style-type: none"> With the proposed amendment to clause 4.7 as mentioned in item 3 above, it will be a requirement of MergeCo to maintain a reliable and <u>accurate ticketing system</u> for collection of fares. It should be noted that add-value machines are part of the ticketing system. We have considered the feasibility of setting a new PR / CSP as proposed by some members, but noted that it is difficult to identify an objective and reasonable yardstick which will be acceptable to all parties concerned to measure the performance of add-value machines in terms of their accuracy. Despite that, the corporations indicate that there are already set procedures for monitoring add-value machines to ensure their reliability and accuracy, and in case a fault of the machines is detected, the corporations would conduct investigation and rectify the fault as soon as possible.
(5) The Administration to consider amending clause 4.8 to further require that MergeCo should ensure that all smart card handling facilities were at all times accurate.	<ul style="list-style-type: none"> Members' suggestion of ensuring that all smart card handling facilities are at all times accurate has been incorporated in the proposed amendments mentioned in item 4 above. In fact, clause 4.8 is a provision about security of ticketing system whereby MergeCo shall as far as is reasonably practicable, ensure that all ticket, smart card and cash handling facilities are at all times safe and secure.

Issue	Response
<p>(6) The two railway corporations to consider the proposal to display the remaining stored value on an Octopus card when passenger touched the card on the Octopus Fare Deducting Processor at entry gate, and provide the cost estimate for the related upgrading works.</p>	<ul style="list-style-type: none"> • After further discussion with MTRCL, the corporation has agreed to progressively complete the improvement works for the entry gates after the rail merger such that all entry gates in MTR and KCR stations could display the remaining stored value of Octopus cards where passengers enter the gates.
<p>(7) In relation to the incident of inaccurate fare deduction from Octopus card in MTR Kowloon Tong Station on 10 January 2007, the Administration to provide information on the records furnished by MTRCL regarding the malfunctioning of the ticket gates and how Government would monitor the performance of railway corporation in order to ensure the provision of a reliable and accurate fare collection system.</p>	<ul style="list-style-type: none"> • In relation to the incident of inaccurate fare deduction from Octopus card in MTR Kowloon Tong Station on 10 January 2007, the Government had required MTRCL to provide an incident report detailing the causes of the incident, the remedial measures taken, the impact on passengers, and the notification to passengers of the refund arrangement. In addition, the railway corporation had demonstrated to the Government their internal monitoring systems and related operating procedures. The corporation was also required to produce for inspection by the Government the records of fault or the exception reports which the computer systems generated during the daily health and night checks, and the enhanced maintenance procedures for the ticket gates, to ensure that the improvement measures implemented by the corporation were effective in preventing the recurrence of similar incidents in the future. <u>Annex 1</u> sets out the major items of data/information provided by MTRCL to the department.

Issue	Response
	<ul style="list-style-type: none"> As the regulator, the Transport Department requires the railway corporations to put in place a robust internal control and audit mechanism to ensure the provision of a reliable and accurate fare collection system to their customers. The department also monitors the trend of reliability of ticket gates through the monthly returns submitted by the corporations. According to the requirement of existing OA, external auditor report submitted to the department annually will provide an independent assessment on whether MTRCL has put in place internal control systems and procedures which are adequate to enable the corporation to measure and record their compliance with the performance requirements and their calculations of the customer service pledges. The series of events, which the external auditor of the corporation has to look into under the audit plan, include reported discrepancies in fare collection at ticket gates of individual stations.
(8) The Administration to consider including the requirement of the reliability of MTR fare saver machines under IOA.	<ul style="list-style-type: none"> MTRCL indicates that as the fare saver is a promotional measure and the provision and location of the fare saver machines are subject to review by the corporation from time to time, it is not appropriate to subject the provision or performance of fare saver machines to specific requirements in the IOA.

Issue	Response
(9) The two railway corporations to consider introducing new/maintaining existing concessionary monthly ticket schemes.	<ul style="list-style-type: none"> • The two rail corporations reiterated that they had introduced a number of fare concessionary schemes over the past few years in the light of the overall economic environment of Hong Kong, their marketing strategy and passenger demand so as to lessen the burden of travelling expenses, including MTR Fare Savers in many districts, East Rail/West Rail One-Month Pass, West Rail Discovery Pass, East Rail/West Rail travel package, Child/Senior Citizen \$2 special concession on West Rail on Saturday, Sunday and public holidays, and other inter-modal discounts for interchange. According to spirit of free enterprise, it will be the commercial decision of railway corporations as to whether they will offer concessions. The two corporations have indicated that the fare concessionary schemes would continue to be reviewed regularly in the light of market conditions and passenger demand.
(ii) Passenger Environment (Clause 4.4)	
(10) The Administration to provide a copy of the guidelines in relation to the regulation over the broadcasting of audio or audio-visual programmes in franchised buses.	<ul style="list-style-type: none"> • The major items in the existing guidelines in relation to the regulation over the broadcasting of audio or audio-visual programmes in franchised buses are set out below: <ul style="list-style-type: none"> (i) The volume of the audio broadcast should be at a level close to the ambient noise level inside the bus. (ii) A quiet zone should be designated at the lower deck of the bus where only one speaker thereat should be turned on.

Issue	Response
<p>(11) The Administration to advise whether it would allow MergeCo to broadcast audio or audio-visual programmes in train compartments and train stations, and whether the current restrictions as set out in the KCRC By-laws governing the conduct of passengers to avoid causing a nuisance or annoyance to other passengers should form the basis of Government's policy in relation to any aspects of the transmission of audio or audio-visual programmes in train compartments and train stations.</p> <p>(12) The Administration to provide information on the guidelines on the regulation over the broadcasting of audio or audio-visual programmes in train compartments, and consider setting out in the guidelines the requirement to (i) provide a minimum proportion of Quiet Zones/Cars, e.g. by referencing to a specified percentage of Quiet Zones/Cars of the train compartments; and (ii) provide the broadcasts of news programmes and advertisements in train compartments in the mute mode with captions.</p>	<ul style="list-style-type: none"> • The proposed guideline in relation to the regulation of broadcast of audio or audio-visual programmes in train compartments will cover the following key elements: <ul style="list-style-type: none"> (i) The volume of the audio broadcast should be at a level close to the ambient noise level inside the train compartment. (ii) Taking into account the existing arrangement of silent compartments on East Rail (ER), West Rail (WR) and Ma On Shan Rail (MOSR) trains viz. 16% of the compartments of a ER train are silent compartments (2 out of 12 compartments), 14% for WR (1 out of 7 compartments) and 25% for MOSR (1 out of 4 compartments), and after detailed discussion with the railway corporations, it is agreed that the guideline for MergeCo will specify that at least 25% of the compartments on each train should be free from broadcast with audio effect i.e. the higher percentage of silent compartments under the existing arrangement will be adopted. On the other hand, given the small number of First Class compartments in ER trains, the guideline will stipulate that MergeCo should provide quiet zone in such compartment which should cover at least 25% thereof. • For ER, WR and MOSR trains, if the rail merger is implemented, the proposed guideline will apply in full to these trains upon expiry of the current contract between KCRC and a commercial TV station regarding the provision of audio or audio-visual programmes on board these trains, which will be in August 2010.

Issue	Response
<p>(13) The Administration to consider stipulating in the IOA the requirement for MergeCo to provide radio reception on board its trains.</p>	<ul style="list-style-type: none"> • At present, tunnel operators are required to provide facilities for radio reception inside the tunnels so that they can make use of the radio channels to transmit messages to drivers inside the tunnels through the latter's car radio during any emergencies inside the tunnels or on roads nearby. This requirement is necessary because drivers cannot receive messages from an ordinary broadcasting system when they are inside their vehicles in the tunnels. • The situation is different for railways. The corporations have already installed a special broadcasting system to enable direct communication between train drivers and passengers. The frequencies for radio broadcast are different from those used for the existing railway broadcast system, therefore the latter cannot be used for receiving radio broadcast. • In order to enhance passenger service, MTRCL has recently rolled out 3G coverage across its network. Passengers can obtain information on news through the relevant internet service. MTRCL will also introduce WiFi service at platforms and concourses of 16 MTR stations in the latter half of 2007, enabling passengers to receive radio and TV services through wireless internet access. MTRCL indicated that they would continue to explore the application of new technologies in providing better passenger service.

Issue	Response
(iii) Signs and Passenger Information (Clause 4.15)	
(14) The Administration to consider specifying a minimum display area for the signs and passenger information in every station so as to ensure the clearly display of passenger information at convenient locations.	<ul style="list-style-type: none"> • There are no common international standards specifically on the number of signage to be provided and the percentage of station space to be allocated for display of such signage in a railway system. • The railway corporations advised that their existing arrangement is generally highly regarded in the international arena and has been the subject of interest for overseas railway operators and other municipal governments. • At present, signs and passenger information are displayed at prominent locations in each and every MTR and KCR station. The railway corporations have established channels to solicit the views of passengers on the provision of signs and passenger information, and they will follow up any specific suggestions or comments by passengers.
(15) The two railway corporations to consider displaying a hotline number near the ticket and add-value machines for passengers to make enquiries and seek in-station assistance.	<ul style="list-style-type: none"> • The two corporations agree to make arrangement to display a hotline number near all ticket machines and add-value machines in their railway stations as soon as possible for passengers to make enquiries and seek in-station assistance.
(iv) Instruction Manuals (Clause 5.2)	
(16) The Administration to consider including the maintenance schedules and procedures referred to in clause 5.5.3 in the list of submissions to the Inspector as stipulated in clause 5.2.1.	<ul style="list-style-type: none"> • The relevant clause will be amended to require MergeCo to provide to the Inspector relevant documentation of the maintenance management system referred to in clause 5.5.1.

Issue	Response
(v) Independent Safety Expert (clause 5.3)	
(17) The Administration to consider amendments to ensure impartiality of the independent safety expert or to assume a more proactive role in the selection process of the independent safety expert engaged by MergeCo.	<ul style="list-style-type: none"> • The relevant clause will be amended to stipulate that: <ul style="list-style-type: none"> - the list of candidates for appointment as the independent expert by MergeCo shall be subject to agreement with HKRI; - MergeCo shall consult the Inspector on the study brief of the review; and - MergeCo shall submit report of the review to the Inspector to explain the findings of the review.
(18) The Administration to consider refining the drafting of clause 5.3 to clearly express that a review of the safety management system would be conducted at any time with the agreement of MergeCo and the Inspector but in any case the interval of such review should be not more than three years.	<ul style="list-style-type: none"> • The relevant clause will be amended in accordance with Members' suggestion.

Issue	Response																				
(vi) Provision of Railway Staff (Clause 5.6)																					
<p>(19) The Administration to provide a breakdown of the workforce employed by the two railway corporations in terms of full-time staff, part-time staff, permanent staff, contract staff, direct staff employed by the two railway corporations and contract staff employed by contractors engaged by the two railway corporations.</p>	<ul style="list-style-type: none"> According to information provided by MTRCL and KCRC, a breakdown of the workforce employed by the two railway corporations is set out below: <table border="1" data-bbox="981 355 2098 707"> <thead> <tr> <th rowspan="2">Category</th> <th colspan="2">Number of Staff (as at end 2006)</th> </tr> <tr> <th>MTRCL</th> <th>KCRC</th> </tr> </thead> <tbody> <tr> <td>(A) Full-time staff⁽¹⁾</td> <td>6,639</td> <td>6,049</td> </tr> <tr> <td>- <i>Permanent staff</i></td> <td>5,885</td> <td>4,085</td> </tr> <tr> <td>- <i>Contract / Short-term staff</i></td> <td>754</td> <td>1,964</td> </tr> <tr> <td>(B) Part-time / temporary staff</td> <td>499</td> <td>668</td> </tr> <tr> <td>Number of staff directly employed (A)+(B)</td> <td>7,138</td> <td>6,717</td> </tr> </tbody> </table> <p>Note :</p> <p>(1) Full-time staff refers to staff employed by the two corporations or their wholly-owned subsidiaries.</p> The two corporations advised that on managing their out-sourcing contracts, they would monitor the performance of their contractors but not the number of staff employed by the contractors. Hence, they are not able to provide the information of the number of staff employed by the contractors. 	Category	Number of Staff (as at end 2006)		MTRCL	KCRC	(A) Full-time staff ⁽¹⁾	6,639	6,049	- <i>Permanent staff</i>	5,885	4,085	- <i>Contract / Short-term staff</i>	754	1,964	(B) Part-time / temporary staff	499	668	Number of staff directly employed (A)+(B)	7,138	6,717
Category	Number of Staff (as at end 2006)																				
	MTRCL	KCRC																			
(A) Full-time staff ⁽¹⁾	6,639	6,049																			
- <i>Permanent staff</i>	5,885	4,085																			
- <i>Contract / Short-term staff</i>	754	1,964																			
(B) Part-time / temporary staff	499	668																			
Number of staff directly employed (A)+(B)	7,138	6,717																			
(vii) Opening of the Railway, New Projects and Additional or Modified Major Facilities, etc. (Clause 5.7)																					
<p>(20) MTRCL to set out the difficulties in installing Automatic Platform Gates (APGs) at above-ground MTR stations.</p>	<ul style="list-style-type: none"> Reply of MTRCL is at <u>Annex 2</u>. 																				

Issue	Response
(viii) Contingency plans (Clause 5.8)	
(21) The Administration to consider amending clause 5.8 to the effect that the contingency plans to be developed by MergeCo should cover arrangements for matters other than those listed in clause 5.8 such as refund arrangement.	<ul style="list-style-type: none"> • The existing clause that stipulates the matters to be covered in the contingency plans has already included arrangements for fare collection, which covers refund arrangement. • Clause 5.8 will be amended to set out clearly that the matters to be covered in the contingency plans shall not be limited to those listed in that clause.
(ix) Land for New Projects (Clause 6.1)	
(22) The Administration to provide information on how the issue on “wind shield effect” can be addressed in all property development projects to be undertaken by the two railway corporations in future, including those in the pipeline which had yet to be developed.	<ul style="list-style-type: none"> • The Housing, Planning and Lands Bureau advised that the Planning Department completed the Feasibility Study for the Establishment of Air Ventilation Assessment System in 2005 and formulated a set of design guidelines for the improvement of air ventilation on the basis of the study findings. The guidelines were incorporated into the Chapter "Urban Design Guidelines" of the Hong Kong Planning Standards and Guidelines in August 2006 to provide guidance for government, railway corporations and property developers during the planning and design for individual development projects. The relevant authority will make reference to the guidelines in approving the development projects. The relevant authority may also take into account the situation of individual cases and request the applicants to submit air ventilation assessments through the planning approval mechanism. • For those property developments that were tendered or with the planning approval process completed before the issue of the above-mentioned design guidelines, the Government encourages the relevant railway corporations and property developers to make reference to the guidelines and assess the impact of the property development on air ventilation.

Issue	Response
(x) Disruptions to Train Services (Clause 4.1.1)	
(23) The Administration to consider amending clause 4.1.1 to set out the requirement to notify media under the specified circumstances as stipulated in clause 4.1.1.	<ul style="list-style-type: none"> The relevant clause will be amended to require MergeCo, in respect of all of the circumstances set out in clause 4.1.1, to notify the media as soon as practicable after reporting to the Commissioner for Transport and Commissioner of Police if the situation may affect the public and such notification will not adversely affect the safe and efficient operation of the railway.
(xi) Monitoring of Environmental Conditions (Clause 3.6)	
(24) MTRCL was requested to address the emission of foul odour at MTR stations.	<ul style="list-style-type: none"> According to the Environmental Protection Department (EPD), the smell at Tseung Kwan O mentioned by Members is odour from sources outside the MTR station and is not originated from the station itself. EPD is seeking confirmation on whether the odour originates from the landfill sites in the vicinity and is working with the local community on the subject. As regards MTR Prince Edward Station, EPD advised that the smell was contributed by a number of factors including the ground condition in the area. During its early years of operations in the 80s and early 90s, MTRCL has undertaken a number of trials on air refreshing systems which succeeded in reducing the smell over time. MTRCL advised that the corporation would endeavor to provide a comfortable passenger environment and would respond to and address customers' suggestions and complaints as appropriate.

Issue	Response
(xii) Others	
<p>(25) The Administration and MTRCL to consider including relevant provisions in the integrated Operating Agreement (IOA) to ensure the provision of public toilets at rail stations, particularly existing MTR stations.</p>	<ul style="list-style-type: none"> • We have discussed further with MTRCL. The corporation responded that it is not a common international practice to provide public toilets in urban metro as metro stations are normally built underground. Retrofitting toilets in underground stations will require not only heavy capital investment but also massive drainage and ventilation works which present great technical and engineering challenge. • For MTR lines, toilets are not provided as the average journey time is comparatively short (about 12-15 minutes). Passengers in need may contact station staff for arrangement to use staff toilets or for direction to the nearby public toilet provision e.g. in the nearby shopping centre in the vicinity of the MTR stations. • MTRCL advised that it is an exceptional arrangement to have provided public toilets along the Airport Express Line and the Disney Resort Line because of the nature, the longer headway and the high percentage of small children using the services. These toilets are not at underground level. • MTRCL advised that they have no plan to retrofit existing MTR stations with public toilets, but they would continue to explore suitable opportunities to work with relevant government departments to consider provision of public toilets in the vicinity of existing MTR stations. For example, public toilets were constructed by the corporation at ground level next to some of the MTR stations or at public transport interchanges along the Tseung Kwan O Line. The corporation will also consider the provision of public toilets at future new MTR lines on a line-by-line basis.

Issue	Response
(26) The two railway corporations to examine all possible means to improve the air flow at platforms of non-enclosed railway stations with reference to the cooling devices used by the rail operators of hot places such as Kuala Lumpur and Singapore.	<ul style="list-style-type: none"> • MTRCL advised that they have no information indicating that there are similar facilities or set-ups in Singapore. • The corporation is seeking information from Malaysia regarding their practice and will make reference to any useful information obtained in examining the feasibility of installing such facilities in the rail system in Hong Kong.
(xiii) Intercity Passenger Service and Freight Service (Clause 17)	
(27) The Administration to explain why the intercity passenger service and freight service are not subject to the same set of performance requirements and customer services pledges for domestic service.	<ul style="list-style-type: none"> • Intercity railway services are cross-boundary railway services provided jointly by KCRC and various railway authorities in the Mainland. Relevant arrangements for intercity railway services are worked out under mutual agreements between KCRC and these railway authorities. The situation is in certain ways similar to international flight services provided by airlines. Since the nature and mode of operation for intercity railway services differ from the local railway services, it is difficult to apply all the provisions and requirements on local services as stipulated in the IOA to intercity railway services. • Notwithstanding this, the proposed IOA contains provisions governing the arrangements of the MergeCo in respect of the safety, general cleanliness, temperature of the compartments, ventilation and the emergency procedures, etc. in the provision of intercity railway services.

Issue	Response
	<ul style="list-style-type: none"> • Since through train services and East Rail services share-use the same escalators and passenger lifts at the East Rail stations, the performance of escalators and passenger lifts in respect of through train services is already reflected when the corporation is fulfilling its obligations in respect of the performance requirements for “escalator reliability” and “passenger lift reliability”. Given that the intercity railway services are jointly provided by the operators of Mainland and KCRC in Hong Kong and the service levels of intercity railway are subject to more complex factors when compared to local railway services and that the transport policy and performance level of railway services in the Mainland are also different from Hong Kong, the other performance requirements on local railway services are not applicable to intercity services.
(xiv) Disclosure of Information (Clause 18.3)	
<p>(28) The Administration to review the drafting of clauses 18.3.1 and 18.5 to ensure that the Government could disclose Restricted Information where necessary without obtaining the agreement of MergeCo.</p>	<ul style="list-style-type: none"> • Clause 18.3.1 stipulates that if Government intends to disclose Restricted Information, it shall first consult the Corporation regarding its intention. Clause 18.3.3 further elaborates that Government may disclose Restricted Information after consultation with the Corporation. Besides, clause 18.5 has clearly specified that the requirement for consultation with the Corporation in relation to any matter does not oblige the Government to obtain the agreement of the Corporation. • We have further reviewed the relevant clause and considered that “any matter” mentioned in clause 18.5 already covers Restricted Information. As such, it is not necessary to amend clause 18.5 to stipulate that the relevant information is Restricted Information.

(xv) Noise (Clause 4.6)	
(29) The Administration to provide details on the statutory limits of the noise emitted due to railway operations and whether it was appropriate to make reference to noise limits of overseas jurisdictions in setting the limit, and the two railway corporations' measures to rectify the exceedance cases.	<ul style="list-style-type: none"> • Reply of Environmental Protection Department is at Annex 3.
(30) The Administration to provide details on the criteria the Environmental Protection Department would consider in issuing the construction noise permits to KCRC for the railway maintenance works under the Noise Control Ordinance (Cap. 400).	
(31) 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.	
(32) The two railway corporations were requested to address the concerns about excessive noise generated by railway operations and maintenance activities.	<ul style="list-style-type: none"> • Reply of the railway corporations is at Annex 4.

Issue	Response
<p>(33) The Administration to provide information on measures taken by the Environment, Transport and Works Bureau, and the Housing, Planning and Lands Bureau at the initial planning stage of railway development to ensure that residents along the railway corridor would not be exposed to excessive railway noise upon implementation.</p>	<ul style="list-style-type: none"> • Railway projects are Designated Projects under the Environmental Impact Assessment Ordinance, under which the railway corporations are required to undertake environmental impact assessments to determine noise impacts to the potential noise sensitive receivers arising from both the construction and the operation of the proposed railways. According to the Technical Memorandum on Environmental Impact Assessment Process, potential noise sensitive receivers include existing domestic premises and planned developments approved for domestic purpose. The noise impact to these areas from the proposed railways shall be assessed in the environmental impact assessments of the railway projects. • According to the Technical Memorandum on Environmental Impact Assessment Process, if the predicted noise impacts exceed the allowable levels, suitable mitigation measures would need to be adopted. Mitigation measures that can be considered include alternative alignment for railways, construction of noise barrier/enclosure, set back of buildings etc. to mitigate the noise impacts to comply with the requirements in the above-mentioned Technical Memorandum.
<p>(xvi) Performance Requirements (Clause 4.10)</p>	
<p>(34) The Administration to consider introducing an objective and effective system, for the purpose of issuing warnings and/or imposing financial penalty on MergeCo for any repeated failures by MergeCo to comply with any Performance Requirement.</p>	<ul style="list-style-type: none"> • According to the existing legislation and Operating Agreement, MTRCL is required to meet a set of pre-determined performance requirements, which are objective and transparent. A set of comprehensive and objective mechanism for monitoring railway performance is already in place, which requires continuous review and improvement from the railway corporations so that the services provided can meet changing needs.

Issue	Response
	<ul style="list-style-type: none"> • Currently there are three main performance requirements that relates to the monitoring of service performance of railway, viz. Train Service Delivery, Passenger Journeys On Time and Train Punctuality. They are scientific and objective measurements, which have taken into account fully and comprehensively the impact of railway incidents of different nature on train services, since the nature, duration and the timing of the incidents (e.g. whether they occur during peak hours) will have different levels of impact. The relevant requirements are set in accordance with international practices and are set at higher levels than international levels. • Under the existing arrangement, in case of non-compliance with these performance requirements, the Administration could issue verbal or written warnings and require improvements from the MergeCo under existing arrangements and could also impose financial penalty, or revoke the franchise if the MergeCo is in substantial failure to comply with these requirements under the relevant legislation. In fact, the Administration has previously issued written warning to KCRC for its failure to report promptly on the cracks found on underframe equipment mounting brackets of East Rail trains and warned the corporation that it should promptly notify the Government of any problem or incident relating to the railways in future according to relevant Regulations.

Issue	Response
	<ul style="list-style-type: none"> • On the other hand, if we were to specify clearly in the IOA the circumstances under which a verbal warning, written warning or a financial penalty will be considered, this will give rise to the issue of inconsistency with the provision in the relevant ordinance which provides for the power of the Chief Executive in Council to impose financial penalty. The relevant ordinance stipulates that the Chief Executive in Council may impose on the corporation a financial penalty for any failure by the corporation to comply with any provision of the relevant ordinance or the OA after a set procedures has been completed (the relevant legal provision is at Annex 5 for reference). • We will take into account the circumstances of each case and decide the most effective way to handle the case and ask the corporation to take follow up actions.
<p>(35) The Administration to consider amending clause 4.10.1 to the effect that MergeCo would be required to provide information to LegCo concerning any failure by MergeCo to meet any Performance Requirement during an assessment and setting out the circumstances under which information pertaining to the failure by MergeCo to meet any Performance Requirement would be made public.</p>	<ul style="list-style-type: none"> • The relevant clause will be amended to require MergeCo to provide information to LegCo concerning any failure by MergeCo to meet any Performance Requirement and to advise the actions it has taken, are being taken or proposed to take to improve its performance within one month after the Commissioner for Transport has assessed a failure by MergeCo to meet any Performance Requirement during an Operating Period.

Issue	Response
(36) The Administration to consider amending clause 4.10.2 (b) to the effect that at any other time or times during the Operating Period, the Commissioner for Transport (the Commissioner) could, having regard to the results of any customer surveys covered by reports furnished pursuant to clause 4.13.3, request a joint review of the Performance Requirements in conjunction with MergeCo.	<ul style="list-style-type: none"> The relevant clause will be amended to require MergeCo, upon receiving a request from the Commissioner for Transport, to carry out a joint review of the Performance Requirements in conjunction with the Commissioner, having regard to, but not be limited to, the results of any customer surveys covered by reports furnished pursuant to clause 4.13.3 at any other time or times during an Operating Period.
(37) The Administration to consider the need of requiring MergeCo to brief LegCo of the Performance Requirements for New Projects before such New Projects are commissioned.	<ul style="list-style-type: none"> The relevant clause will be amended to require MergeCo to provide information to the Transport Panel of LegCo regarding the Performance Requirements for New Projects before such New Projects are commissioned.
(xvii) Customer Service Pledges (Clause 4.12)	
(38) The two railway corporations to <ul style="list-style-type: none"> consider providing a breakdown of passenger complaints by categories when publishing passenger complaint data under clause 4.12.2(b); include data on railway incidents when publishing data in relation to accidents etc. on the railways in clause 4.12.2(c); and publish on a quarterly basis instead of on an annual basis data on issues covered in clauses 4.12.2(c) and 4.12.2(d). 	<ul style="list-style-type: none"> The relevant clause will be amended to require MergeCo to take into account the matters listed in clause 4.12.3 and publish the breakdown of passenger complaints at the same time when publishing the data in relation to passenger complaints pursuant to clause 4.12.2(b). The relevant clause will be amended to add a requirement for MergeCo to publish the relevant data in relation to service delays. The relevant clause will be amended to require MergeCo to publish the data listed in clauses 4.12.2(c) and 4.12.2(d) on a quarterly basis instead of on an annual basis.

Issue	Response												
<p>(39) The Administration to discuss with MTRCL on how to refine clause 4.12.4 to the effect that MergeCo should take appropriate follow-up action should MergeCo constantly fail to meet the Customer Service Pledges listed in clause 4.12.3.</p>	<ul style="list-style-type: none"> Clause 4.12.2(a) already stipulates that MergeCo shall publish on a quarterly basis, such data as shall measure its actual performance against the Customer Services Pledges, together with explanations. MTRCL reiterates that their Customer Service Pledges are intentionally set at a higher level with a view to providing the best service quality to its passengers voluntarily. After taking into account MTRCL's elucidation and Members' views, we will amend the relevant clause of the IOA to require MergeCo to explain any failure by the Corporation to meet any Customer Service Pledge when publishing the actual performance and to provide information on the actions it has taken, or proposed to take to improve its performance. 												
<p>(xviii) Measuring Customer Satisfaction (Clause 4.13)</p>													
<p>(40) The two railway corporations to consider reviewing the arrangements for measuring customer satisfaction with their railway services so as to gauge passengers' views on whether they were satisfied with the way the railway corporations handled a particular railway incident and the related contingency arrangements.</p>	<ul style="list-style-type: none"> The railway corporations agree to review their customers' satisfaction surveys and other customer feedback mechanisms with a view to effectively taking into consideration passengers' views obtained from these means on the way MergeCo handles railway incidents and the related contingency arrangements. 												
<p>(41) KCRC to provide findings of previous passenger satisfaction surveys with regard to customer satisfaction with the contingency measures implemented during KCR railway incidents.</p>	<ul style="list-style-type: none"> According to KCRC, respondents are asked in its Customer Satisfaction Survey to score on their satisfaction level towards the Corporation's contingency measures implemented for service disruption / delay based on a 10-point scale (where 10 points represent the greatest satisfaction). Please find below the satisfaction scores recorded in the latest surveys conducted in 2006: <table border="1" data-bbox="958 1321 2056 1460"> <thead> <tr> <th>Survey</th> <th>East Rail / Ma On Shan Rail</th> <th>West Rail</th> <th>Light Rail</th> </tr> </thead> <tbody> <tr> <td>#1</td> <td>6.7</td> <td>7.0</td> <td>7.0</td> </tr> <tr> <td>#2</td> <td>6.9</td> <td>7.0</td> <td>7.0</td> </tr> </tbody> </table>	Survey	East Rail / Ma On Shan Rail	West Rail	Light Rail	#1	6.7	7.0	7.0	#2	6.9	7.0	7.0
Survey	East Rail / Ma On Shan Rail	West Rail	Light Rail										
#1	6.7	7.0	7.0										
#2	6.9	7.0	7.0										

Issue	Response
(42) KCRC to consider improving the arrangements for measuring customer satisfaction with the Light Rail (LR) service and consider improvement measures such as installing platform gates at LR stations, improving the open fare and ticket inspection system so as to reduce conflicts between passengers and LR staff, introducing monthly ticket scheme for short-haul journeys, improving the traffic light, enhancing the safety of signalized pedestrian crossings across the LR tracks, etc.	<ul style="list-style-type: none"> • Reply of KCRC is at Annex 6.
(43) The Administration to consider stipulating in clause 4.13 that the report submitted by MergeCo under clause 4.13.3, including the Administration's assessment of the report and suggested follow-up actions to be taken by MergeCo, should be made public.	<ul style="list-style-type: none"> • The IOA will be amended to require MergeCo to make public relevant information of the report submitted by MergeCo under clause 4.13.3 and the Administration's comments and suggestions of the report.
(xix) Dispute Settlement (Clause 11.2)	
(44) The Administration to provide information on how the financial terms for the operation of new project under the concession approach could be finally determined if MergeCo is obliged to operate new project under the IOA.	<ul style="list-style-type: none"> • We will amend the IOA to stipulate that if the MergeCo fails to reach an agreement with the grantor of the service concession of the new railway on the relevant financial terms, each party shall separately nominate an independent valuer and the two valuers shall be jointly appointed by both parties to make the determination in accordance with the pre-agreed mechanism. In case the two valuers fail to make a joint determination, the dispute shall go to arbitration. Any arbitration award shall be binding on both parties.

Issue	Response
<p>(45) The Administration to consider requiring both parties to submit disputes under the IOA to arbitration if that dispute is not resolved through informal negotiation “within a reasonable period of time”. Such requirement should not prejudice the right for both parties to seek injunctive or other judicial relief at any time.</p>	<ul style="list-style-type: none"> • There are a number of ways in which disputes between the parties can be resolved, such as negotiation, arbitration and through the normal court process. It would be inappropriate to force the parties to use arbitration as the means for resolving a dispute. Instead, flexibility should be preserved to enable the parties to resolve their disputes in the most appropriate manner for the particular dispute, and to be addressed on a case-by-case basis taking account of the particular circumstances of the dispute. The time taken under each of these processes to settle a dispute would depend on the nature and substance of the dispute. Clause 11 which is based on the existing Operating Agreement was carefully drafted to avoid unnecessarily restricting the way in which disputes are to be settled. • On the other hand, in view of members’ question concerning the possibility of the specific situation described in item 44 above arising after implementation of the rail merger, we have proposed to introduce a new provision in the IOA to address that point.
<p>(xx) Assistance in Securing Continuity (Clause 12.2)</p>	
<p>(46) The Administration to consider adding “reasonable” apart from “in good faith” in describing the actions taken or omitted to take by MergeCo; and to draw reference on the agreement between Government and franchised bus operator on similar matters, if any.</p>	<ul style="list-style-type: none"> • The relevant clause will be amended to stipulate that that nothing in clause 12.1 shall preclude the Corporation from taking any action or omitting to take any action in good faith <u>with reasonable cause</u> and in the ordinary and usual course of business of the Corporation.

Issue	Response
(xxi) Review of Terms of Operating Agreement (Clause 13)	
(47) To ensure the impartiality and transparency of the review, the Administration to consider inviting academics, independent professionals or LegCo Members to undertake the review, and making public the result of the review.	<ul style="list-style-type: none"> • The IOA will be amended to stipulate that MergeCo shall provide relevant information to the Panel on Transport of LegCo on any amendment to the IOA resulting from the periodic review. • In the course of the review of the IOA, Government and MergeCo will seek comments from independent experts either individually or jointly if necessary to ensure the relevant review can be carried out effectively.
(48) The Administration to consider carrying out the first periodic review of the IOA on the third anniversary of the date of the IOA.	<ul style="list-style-type: none"> • Railway is a long-term investment which necessitates a relatively stable operating environment. After further discussion with MTRCL, we both consider it appropriate for setting the periodic review cycle at an interval of five years.
(xxii) Periodic Review (Clause 13.1)	
(49) The Administration to consider revising clause 13 to ensure that the review of the terms of the IOA would take into account public affordability.	<ul style="list-style-type: none"> • Clause 13.1 stipulates that the relevant factors to be considered by the parties when they carry out the review shall include inter alia passenger needs. • Passenger needs cover a wide range of matters including but not limited to affordability of passengers in respect of fares. Therefore, it is not necessary to amend the relevant clause.
(50) The Administration to consider specifying that the first periodic review should cover the review of the Fare Adjustment Mechanism.	<ul style="list-style-type: none"> • The relevant clause will be amended to specify that the first periodic review after the IOA has come to effect shall cover the review of the relevant provision of the FAM.

Issue	Response	
(xxiii) Matters Relating to People with Disabilities (PwDs)		
(51) The Administration to consider adding a new clause to the effect that lifts should be provided near the main entrances of station and platform as far as practicable.	<ul style="list-style-type: none"> • The two corporations have established procedures to consult passenger groups representing persons with disabilities (PwDs) to understand their need on service and facilities provision. After further discussion with the Government, MTRCL agrees to add a new clause in the IOA to stipulate that MergeCo shall establish procedures to consult groups representing PwDs, carry out annual reviews of its facilities provided for PwDs, and report the review result to the relevant groups representing PwDs. • MTRCL also agrees to amend the relevant clause of the IOA to stipulate that escalators and lift shall be installed in appropriate locations for the efficient and effective transportation of passengers within stations. • MTRCL indicated that MergeCo would provide at least one wide-gate in each KCR stations to enhance the convenience of users who are PwDs. • As regards the feasibility of introducing a new customer service pledge on the reliability of the facilities for use by users who are PwDs, MTRCL advised that in establishing customer service pledges, the corporation will make reference to overseas examples and the practice of other railway operators. According to the information of MTRCL, there is currently no particular example of reliability targets on these particular facilities. MTRCL will continue to see if there is relevant information from overseas countries for its reference in this aspect. • MTRCL advised that they are not aware of any overseas rail system providing flash 	
(52) The Administration to consider adding a new clause to the effect that MergeCo should review the provision of lifts annually and to adjust the level of provision having regard to the results of the annual review on the demand for lift services by passengers.		
(53) The Administration to consider revising clause 4.14.1 to the effect that MergeCo should set up users consultative committee, which should include, inter alia, users from PwDs and the elderly.		
(54) MTRCL to provide information on the criteria adopted in inviting PwDs organizations for joining their consultative procedures.		

Issue	Response
<p>(55) The two railway corporations to consider</p> <ul style="list-style-type: none"> • providing bi-directional wide gates at all KCR stations; and • improving the design of ticketing machines to facilitate access and use by persons with different types of disabilities. <p>(56) The Administration to consider revising clause 4.15 to the effect that</p> <ul style="list-style-type: none"> • MergeCo should provide and maintain tactile guide paths, appropriate contrast tactile guide paths, anti-slip stair treads and escalator audible signals; • MergeCo should display on railway premises and the approaches thereto appropriate signs and information in Chinese and English, Braille texts and display systems with audible sounds and captions. <p>(57) MTRCL to explore any flashing light system used in overseas rail systems that would not have an adverse effect on persons with epileptic symptoms.</p>	<p>light system that would not have adverse effect on persons with epileptic symptoms.</p> <ul style="list-style-type: none"> • As regard the criteria adopted by MTRCL in inviting PwDs organizations for joining their consultative procedures, a reply of MTRCL is at Annex 7.

Issue	Response
<p>(58) The Administration to consider revising clause 14.1 to include records of –</p> <ul style="list-style-type: none"> • reliability of facilities provided for persons with disabilities (PwDs); and • number of assistance required by PwDs. <p>(59) The Administration to consider adding a new Customer Service Pledge on the reliability of facilities provided to persons with disabilities viz. wheelchair lifts, stair lifts, escalator audible devices, Braille plates, flashing system map, bi-directional wide gates, toilets for PwDs, lifts and tactile guide paths for the visually impaired. (Clause 4.12.3)</p>	

Note:

- (1) The two railway corporations have made considerable progress in their consultation with staff on staff-related matters. They will report to the Bills Committee in due course.
- (2) In response to members' request for provision of information for the Shatin to Central Link, the Administration is consolidating relevant information and will provide the relevant information in due course.

**Data and information submitted by MTRCL in respect of the
wrong deduction of Octopus fares at Kowloon Tong Station on 10 January 2007**

1. Device Exception Alert:
 - Report of alerts generated and sent to Station Controller about a ticket gate machine which has not been in communication with the Station Accounting System (SAS) in the last 4 hours. That means the machine may not be functioning properly and needs prompt attention.

2. AFCOIS CSC Disconnected Device Report:
 - Report generated after close of traffic every day summarizing incidents where any ticket gate machine that has lost communication with the SAS during the operating day.

3. Gate CSC Usage Discrepancy Report:
 - A daily summary report capturing transaction data from all entry/exit gates of each respective station and that of the Station Accounting System, highlighting any discrepancy detected.

4. Control of Work on Automatic Fare Collection System Instructions
 - Information on maintenance process and procedures.

Retrofit of Automatic Platform Gates (APGs) at Above Ground MTR Stations

– Response of MTRCL

- The Corporation is studying the installation of Automatic Platform Gates (APGs) at above ground stations. There are a number of difficulties in constructing such platform gates in an operating railway environment.
- Many of these are similar to the problems encountered and overcome in the Platform Screen Door (PSD) retrofit project. The primary lesson learned from that project is that detailed study and planning at the initial stages are essential to the overall success of the project.
- The key issues that are specific to the installation of APGs include the following:
 - (a) Platform edge loading – in the Platform Screen Door retrofit project, part of the load is taken via the header structure whereas the remaining load is transmitted to the platform. In the case of the APG, all the loads have to be taken by the platform edge structure. Given these loads will not be part of the original platform design, a more substantial modification is deemed necessary. Therefore, detailed study is required to understand the platform edge loading and design suitable modifications to the platform edge structure to take up this additional load.
 - (b) Ventilation – with the provision of APG, we have yet to examine to what extent how the movement of air be affected on the platform. Detailed study and trials are required to understand the effect of APGs on the station ventilation in order to develop a solution that will ensure the best possible environment on the platform for passengers.
 - (c) Earthing Protection – with the APG retrofitted to the platform edges close to open areas, electrical potential between the train body and APG structure would need to be properly addressed in the design and installation process. Detailed study on the earthing system of individual stations is required.

Issues Relating to Noise Generated by Railway Operations and Maintenance Activities
- Response from EPD

- (i) **The Administration to provide details on the statutory limits of the noise emitted due to railway operations and whether it is appropriate to make reference to noise limits of overseas jurisdictions in setting the limit, and the two railway corporations' measures to rectify the exceedance cases.**

1.1 Section 13 and section 37 of the Noise Control Ordinance (NCO), CAP 400 are applicable to train traffic noise and the noise limits are contained in the “Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places and Construction Sites” issued under the NCO. Section 13 of the NCO stipulates that where the Authority is satisfied that noise is emanating from any place other than domestic premises, a public place or a construction site, the Authority may issue a noise abatement notice in accordance with the “Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places or Construction Sites” to the owner or occupier of the place from which the noise emanates. The owner or the occupier is required to abate the noise to a level that does not exceed standard within the period specified. Section 37 of the NCO stipulates that "Section 13 shall apply to the Mass Transit Railway Corporation and the Kowloon-Canton Railway Corporation (KCRC) only as far as is practicable and compatible with the discharge of any function or exercise of any power or duty conferred or imposed upon them according to law".

1.2 The “Technical Memorandum for the Assessment of Noise from Places other than Domestic Premises, Public Places or Construction Sites” stipulates that the Acceptable Noise Level (ANP) of the relevant source assessed at Noise Sensitive Receiver (NSR) location should not exceed the level as set out in the table as below. The corresponding statutory noise limits are in terms of Leq (30min) (i.e. A-weighted equivalent continuous sound pressure level measured over a 30-minute period).

Time period	Area Sensitivity Rating ⁽¹⁾⁽²⁾		
	“A”	“B”	“C”
Day (0700 to 1900 hours) and Evening (1900 to 2300 hours)	60 dB(A)	65 dB(A)	70 dB(A)
Night (2300 to 0700 hours)	50 dB(A)	55 dB(A)	60 dB(A)

Note:

- (1) Determination of Area Sensitivity Rating is at Appendix I.
(2) The noise level is assessed at the noise sensitive receiver location in terms of Leq (30min) (i.e. A-weighted equivalent continuous sound pressure level measured over a 30-minute period).

- 1.3 There is a set of ANLs under stringent legislation in Hong Kong to control, inter alia, noise generating from train traffic; whereas most of other overseas countries do not have statutory noise limits for controlling train traffic noise. Those countries mainly adopt planning standards through landuse planning to reduce the train traffic noise for new railway lines under planning.
- 1.4 It should also be noted that we have adopted a period of 30-minute for assessing the noise generated from those existing train services in Hong Kong while the standard for other countries or regions (e.g. UK and Australia) is to measure the average noise level during an interval of 6 to 24 hours and compare that with its ambient noise level for assessment. This will result in greater chances of meeting the noise level.
- 1.5 In fact, the statutory control standard in Hong Kong under the NCO is more stringent than the planning standards of UK and Australia. A comparison is set out below:

Country/Area	Noise Standard/Limit	Duration for Measuring Noise Standard
Hong Kong (statutory)	60-70 dB(A) Leq (30 min)	Time for measurement: 0700 – 2300 (Equivalent continuous noise level for 30 minutes)
	50 - 60 dB(A) Leq (30 min)	Time for measurement: 2300 – 0700 (Equivalent continuous noise level for 30 minutes)
UK (planning)	68 dB(A) Leq (18h)	Time for assessment: 0600 – 2400 (Equivalent continuous noise level for 18 hours)
	63 dB(A) Leq (6h)	Time for assessment: 0000 – 0600 (Equivalent continuous noise level for 6 hours)
Australia (Queensland) (planning)	65 dB(A) Leq (24h)	Equivalent continuous noise level for 24 hours

1.6 When the Environmental Protection Department (EPD) receives complaint about noise from operation of MTR and KCR services, EPD will assess the noise level and ask the relevant railway corporation to implement noise mitigation measures as far as is practicable.

(ii) The Administration to provide details on the criteria the Environmental Protection Department (EPD) would consider in issuing the Construction Noise Permits to KCRC for the railway maintenance works under the Noise Control Ordinance (NCO) (Cap. 400).

2.1 Railway maintenance works belongs to construction activities. Similar to other construction activities which are subject to control by the Government, the noise of the railway maintenance works is subject to regulation of the “construction noise permit” system stipulated in section 6 of the NCO. Carrying out construction works during the restricted hours (i.e. from 7.00 pm to 7.00 am each night and whole day of Sundays and public holidays) has to apply for “construction noise permit” (CNP).

2.2 The statutory limits of the noise emitted due to railway maintenance works is set out in the “Technical Memorandum on Noise from Construction Work other than Percussive Piling”. Relevant information is set out below:

Time period	Area Sensitivity Rating ^{(1) (2)}		
	“A”	“B”	“C”
All days during the evening (1900 to 2300 hours) and general holidays (including Sundays) during the day-time and evening (0700 to 2300 hours)	60 dB(A)	65 dB(A)	70 dB(A)
All days during the night-time (2300 to 0700 hours)	45 dB(A)	50 dB(A)	55 dB(A)

Note:

- (1) Determination of Area Sensitivity Rating is at Appendix I.
- (2) The noise level is measured at the noise sensitive receiver location in terms of $Leq(5\text{ min})$ (i.e. a weighted equivalent continuous sound pressure level measured over a 5-minute period).

2.3 Under special circumstances, a CNP may be granted even if the construction noise level exceeds the ANL if it can be demonstrated to the satisfaction of EPD that to carry out the construction work during restricted hours would cause less public annoyance or inconvenience than would be caused by carrying out

the construction work during non-restricted hours. Therefore, if refusal to grant CNP may force the railway maintenance activities to be carried out during day time and result in serious service disruption or suspension, EPD may issue and grant a CNP to the relevant railway corporation in accordance with the provisions for special cases as stipulated in the “Technical Memorandum on Noise from Construction Work other than Percussive Piling”. EPD will require the relevant railway corporation to adopt the working practices that generates the lowest level of noise as far as practicable specifying such requirements in the CNP. If it is known to the EPD at the time of issue of the CNP that there are specific and practicable methods available, such as the use of specially silenced items of powered mechanical equipment, acoustic screens and other noise control measures, EPD will specify such requirements in the CNP.

2.4 To ensure safe operation of the railway and safety of maintenance staff, railway maintenance activities have to be carried out during night time after the shut-down of passenger train service. Due to this arrangement, EPD has issued CNP to KCRC for carrying out railway maintenance work during night time.

2.5 EPD has been regularly reviewed the CNP permit conditions and liaise with KCRC to ensure that noise from the maintenance activities could be kept to the minimum. EPD will continue its effort in this aspect. Should there be a breach of permit condition, KCRC is liable to prosecution under the NCO.

(iii) 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.

3.1 According to EPD, noise from railway maintenance work is statutorily controlled under the mechanism in accordance with the NCO. Besides, the CNPs are statutory documents. The permit holder is liable to prosecution if the permit conditions are breached. Therefore, EPD does not have any plan to formulate any other guidance notes or practice note.

Determination of Area Sensitivity Rating (ASR)

Any domestic premises, hotel, hostel, temporary housing accommodation, hospital, medical clinic, educational institution, place of public worship, library, court of law or performing arts centre shall be considered to be a Noise Sensitive Receiver (NSR). The Authority shall determine the appropriate Area Sensitivity Rating (ASR) for the NSR under consideration from the table below.

Degree to which NSR Is affected By Influencing Factor (IF) ⁽¹⁾		Not Affected ⁽²⁾	Indirectly Affected ⁽³⁾	Directly Affected ⁽⁴⁾
(i)	Rural area, including country parks ⁽⁵⁾ or village type developments	A	B	B
(ii)	Low density residential area consisting of low-rise or isolated high-rise developments	A	B	C
(iii)	Urban area ⁽⁶⁾	B	C	C
(iv)	Area other than those above	B	B	C

Note:

- (1) “Influencing Factor (IF)” – any industrial area (an area which consists of a number of factories or industrial establishments), major road (a road with an annual average daily traffic flow in excess of 30,000) or the area within the boundary of Hong Kong International Airport shall be considered to be an IF.
- (2) “not affected” means that the NSR is at such a location that noise generated by the IF is not noticeable at the NSR; and
- (3) “indirectly affected” means that the NSR is at such a location that noise generated by the IF, whilst noticeable at the NSR, is not a dominant feature of the noise climate of the NSR;
- (4) “directly affected” means that the NSR is at such a location that noise generated by the IF is readily noticeable at the NSR and is a dominant feature of the noise climate of the NSR;
- (5) “country park” means an area that is designated as a country park pursuant to section 14 of the Country Parks Ordinance;
- (6) “urban area” means an area of high density, diverse development including a mixture of such elements as industrial activities, major trade or commercial activities and residential premises.

Matters concerning excessive noise generated by rail operation and maintenance works

– Response from the railway corporations

Kowloon-Canton Railway Corporation (KCRC)

East Rail Operation

1.1 To improve the living environment of the residents along East Rail, KCRC had adopted a number of measures to reduce train operational noise.

- With an investment of some \$0.9 billion, the launch of the “Train Noise Abatement Scheme” involving the construction of noise barriers at a number of locations along East Rail had benefited about 130,000 residents. All these works were completed in 2002. The location of these noise barriers include: Tai Wo Station, Sha Tin Hin Keng Estate, Tai Po Market, Fanling Centre, Tai Wai Tsuen Nam Road, Tai Wai Man Lai Court, Ho Man Tin Street, Peace Avenue, Tai Po (North)/ Fanling (South), Kowloon Tong Tat Chee Avenue, Kowloon Tong Fa Po Street, Kowloon Tong Cumberland Road, Kowloon Tong True Light Lane, Mongkok Embankment Road, Tai Po Old Market, Tai Po Tau, Tai Po Pan Chung Village, Tai Po New Fishermen's Village, Hong Lok Yuen (North), Hong Lok Yuen (South), Wo Che and University Station.
- The noise barrier project at Lok Lo Ha of Fo Tan is planned;
- Close monitoring of noise generated by the friction of wheels and rail track;
- Regular grinding of rail tracks in order to retain a smooth interface between the wheels and the rail track; and
- Replacement the materials of the crossover of rail tracks so as to reduce the noise generated when trains run on the crossover points.

1.2 To abate noise generated by maintenance works, KCRC has undertaken a number of noise mitigation measures, for example:

- Expedited the phased replacement of some large old maintenance machines by advanced quiet machines is being speeded up. KCRC has planned to advance the replacement schedule of a 1.2-ton crane and a multi-purpose vehicle respectively by 4 and 5 years in 2010, to reduce the noise of the maintenance works;
- Introduced mitigation measures requested by the Environmental Protection Department (EPD) such as installation of acoustic screens or noise absorbent materials for older machines;
- Installed power supply points along East Rail to replace the portable power

generators;

- Purchased five new diesel locomotives to carry construction trucks during the maintenance works;
- Purchased an advanced and quietest crane to replace the old one; and
- Installed a new tamper with built-in noise abatement features ensuring quieter operation was introduced for East Rail maintenance works; and,

1.3 KCRC will continue to study the various new techniques for noise abatement and adopt the latest technology in the designing new trains and planning of new railways.

East Rail freight / engineering wagons

1.4 KCRC has also adopted the following measures to abate the operation noise of East Rail freight / engineering wagons:

- Five quieter locomotives were introduced in 2004 to replace the old ones, and as far as possible, arrangements have been made for freight wagons and engineering wagons to be hauled by the new locomotives;
- To lower the night-time freight wagon noise level, KCRC has rescheduled the timetable for freight wagon operations, advancing the operation of the last freight wagon to sometime before 11:00 pm to minimise impacts on the residents along East Rail;
- Since 2001, the old diesel locomotives have been equipped with mufflers and noise absorbent materials;
- The freight volume of freight wagons has been reduced. Twin diesel locomotives will be used if heavy loads are to be hauled; and
- Lubrication oil is checked on a regular basis to ensure that the generator of the diesel locomotive is in optimal conditions.

West Rail

1.5 West Rail has adopted the following facilities/design to abate the train operation noise level:

- All trains have been equipped with noise absorbent installations and a multi-plenum noise attenuation system;
- Noise barriers are made of noise absorbent materials (the parapets along both sides of the viaduct); and
- As far as possible, floating slab tracks and resilient plates have been used in designing the railway infrastructure and the permanent way to minimise vibrations transmitted by the viaduct structure.

1.6 West Rail conducts regular inspection and maintenance as well as makes

arrangements for rail grinding according to actual needs to minimise noise generated from the friction between train wheels and rail tracks.

Ma On Shan Rail

1.7 Ma On Shan Rail has adopted measures similar to those of West Rail to minimise noise generated from train operations and maintenance:

- Trains have been equipped with noise absorbent installations as well as under-car noise absorbent materials;
- Noise absorbent features have been added to both sides of the viaduct and noise barriers (the parapets along both sides of the viaduct) have been installed on some viaduct sections; and
- Rubber pads have been installed to support the track slab so as to attenuate noise generated from the friction between train wheels and rail tracks.

Light Rail

1.8 To ensure Light Rail operations can meet with the environmental requirements, KCRC has been proactively adopt the following noise abatement measures:

- Regularly monitor and record noise measurement at the affected sites, and arrange rail grinding according to actual needs;
- Impose train speed restriction at individual road sections and remind Light Rail drivers to pay attention to train speed when driving and the applying braking system;
- Install automatic water sprinkling system at some of the road sections to reduce friction between wheels and rail tracks during operation; and
- Follow stringent maintenance and repair procedures including regular inspection of rail tracks, lubricator and water sprinkling system; arrange rail grinding and maintenance works where necessary, and regularly repair and inspect train wheels; and

1.9 KCRC believes that after adopting the above noise abatement measures, the operational noise of Light Rail could be further reduced.

MTR Corporation Limited (MTRCL)

2.1 The Corporation achieves its noise mitigation policy by –

- implementing intensive rail and wheel maintenance to reduce the normal wear and tear and to keep its noise source to the minimum practicable;
- employing the most practical mitigation measures as appropriate to reduce the

propagation of noise;

- utilizing the latest available and proven technology in the design of new railways; and
- regular monitoring of noise and related issues.

2.2 The Corporation continues to keep abreast of the current international practices and development on rail noise and maintenance. Professional advice from railway experts in track and vehicle design and noise and vibration issues is also sought from time to time. After a series of extensive studies, track investigations and field trials carried out by a renowned international expert on rail / wheel technology, advice has been taken on board by the Corporation which initiated the following key measures in reducing train noise –

- Adoption of a unique wheel and rail profile
- Invested in a highly sensitive and automated rail grinding machine to enhance the rail grinding programme, and limit excessive rail wear;
- Fine tuned the profile of the train wheels at regular intervals; and
- Employed high quality lubricant to reduce squeal and wear

2.3 Rather than using mechanical braking to slow the trains and create noise, the Corporation completed a conversion programme in 1995 to use the reversal of the traction motor current to reduce the speed of the train. Not only does this minimize the noise generated from braking, but also allows a recovery of electricity, a further environmental benefit. In addition, Wheel dampers have been installed on passenger trains on the MTR Tsuen Wan Line, Kwun Tong Line and Island Line to reduce squealing noise.

2.4 The Corporation has installed noise enclosures between Kwai Hing and Kwai Fong, between Shau Kei Wan Tunnel Portal and Heng Fa Chuen, at Tung Chung Station and Tsing Yi Station. Noise barriers have been implemented at Tsui Wan Estate in Chai Wan, Tung Chung, Tsing Yi and Mei Foo. Provisions for additional barriers have been included at Siu Ho Wan, Yam O and between Mei Foo and Olympic Stations. These will be implemented when required due to increasing train services as agreed with the Environmental Protection Department (EPD).

2.5 At the most noise sensitive areas, trains can be operated at restricted speed, i.e. the open section at Heng Fa Chuen and Tsuen Wan in the night time after 23:00 hour to 07:00 hour in the following morning. Given its direct impact on passenger service, operating trains at restricted speed will only be used in exceptional cases.

2.6 The design of the Airport Railway has employed the latest available technology in vehicle and track design as well as individual components.

2.7 The Corporation undertakes regular monitoring of noise levels, roughness or corrugation along the railway. The Corporation will also, in planning for new extensions, employ the latest and proven technology to have better built-in noise reduction features. MTR will share our practical knowledge and results with the Environment Protection Department.

2.8 It is noted that some Members had raised noise concerns over Kwun Tong Line at individual Panel meetings. When the viaduct structure of Kwun Tong Line was built over 20 years ago, its design has not taken into account the loading of extra structure. To support the extra loading of noise barriers, pile foundation works or an independent supporting frame alongside the viaduct would be required. To facilitate these works, one lane of the carriageway along the Kwun Tong Line viaduct would be blocked for a prolonged period. Transport Department's assessment has confirmed that such an arrangement would bring unacceptable impact to traffic. However, in 2001, the Corporation launched a rail joints reduction program for Kwun Tong Line. By the completion of the project in 2003, 65% of the rail joints in the Kwun Tong Line viaduct were removed.

2.9 Regarding concerns about train noise from the Tsuen Wan Line section near Kwai Fong and Kwai Hing expressed by the nearby residents, EPD had conducted assessment study and confirmed that train noise in the concerned section was below statutory control levels. In response to the EPD's suggestion that the running noise near Kwai Fong and Kwai Hing was related to uneven track, the Corporation had immediately conducted grinding works in the relevant track section. Regarding noise complaints near Tsuen Wan Depot, Luk Yeung Sun Chuen and Tsuen King Circuit raised by the nearby residents, EPD's study confirmed that the noise was generated during the horn tests, which are safety critical tests required prior to the departure of trains for passenger service. The tests have been arranged to conduct in enclosed areas in order to minimize impact to nearby residents.

2.10 The Corporation will continue to implement noise mitigation measures as far as reasonably practicable. In 2002, the Corporation has taken advantage of the advanced technology in microprocessor controlled semi-conductor power device, and replaced the existing on board auxiliary power supply with a static inverter to reduce noise emission from running trains. The retrofitting of static inverter on MTR fleet has recently been completed in early 2007.

Section Num:	14	Version Date	30/06/2000
---------------------	-----------	---------------------	-------------------

Heading **Chief Executive in Council may impose financial penalty**

(1) The Chief Executive in Council may, on a reference by the Secretary, by notice in writing impose on the Corporation a financial penalty specified in the notice for any failure by the Corporation to comply with any provision of this Ordinance or the operating agreement, or with any direction, specification or requirement given under this Ordinance or the operating agreement.

(2) The Corporation shall not be found liable to the imposition of a penalty under subsection (1) unless-

(a) the Corporation has been given an opportunity to make representations to the Chief Executive in Council; and

(b) the Chief Executive in Council is satisfied-

(i) that the failure is substantial or is persistent in nature; and

(ii) where the obligation is one of a continuing nature, that the Corporation has had a reasonable opportunity of remedying the failure.

(3) A financial penalty imposed under this section shall not exceed-

(a) in respect of any failure-

(i) in the case of a first imposition of such a penalty, an amount equal to a fine at level 3;

(ii) in the case of a second imposition of such a penalty, an amount equal to a fine at level 4;

(iii) in the case of a third or subsequent imposition of such a penalty, an amount equal to a fine at level 5; and

(b) in respect of any failure which is of a continuing nature, \$10000 for each day on which the failure continues,

and in this subsection, reference to an amount equal to a fine at a certain level is a reference to the amount shown in Schedule 8 to the Criminal Procedure Ordinance (Cap 221) as the amount of a fine of that level for an offence under an Ordinance.

(4) A financial penalty imposed under this section is recoverable by the Government as a civil debt.

(5) Where the Chief Executive in Council is considering the imposition of a penalty on the Corporation under this section, he shall not take into account any failure of the Corporation which was considered for the purposes of a previous imposition of a penalty on the Corporation under this section, unless the Corporation has failed to pay that previous penalty or to rectify any default that gave rise to the failure in question.

(6) This section does not apply to any provision of this Ordinance the contravention of which is an offence under this Ordinance.

Suggestions for Improving Light Rail Services –
Response of Kowloon-Canton Railway Corporation

Kowloon-Canton Railway Corporation (KCRC) is dedicated to continuously improving its services. Below are the responses to the suggestions for Light Rail:

Platform gates at Light Rail stops

2. KCRC has earlier studied the feasibility of installing platform gates at Light Rail platforms. Due to geographical constraints, most of the Light Rail platforms are only about 4 meters wide. After deducting the space occupied by platform facilities, a waiting area of only 2 to 3 metres wide is left for passengers taking Light Rail. If platform gates are to be installed, platform space will be further reduced. The situation will be worse during peak hours. Not only will the passengers boarding and alighting be inconvenienced, but also the time taken for boarding and alighting be extended. The efficiency of train operation may also be affected as well. In view of the above, KCRC has no plan to install platform gates at Light Rail stops.

3. To enhance platform safety, Passenger Service Assistants and Traffic Regulators are deployed to patrol along the Light Rail stops to provide appropriate assistance to passengers. During peak hours, Platforms Assistants are deployed to assist passengers to board and alight trains at busy stops.

Open fare and ticket inspection system

4. Light Rail has adopted an open fare system since commissioning in 1988. Such system is widely adopted in well-developed countries, especially in Europe and America, including the U.S.A. the Netherlands, the U.K., Canada, Australia and Germany etc. Passengers holding a valid ticket can board and alight from Light Rail Vehicles (LRV) at their convenience. This open system provides more flexibility in the design of Light Rail stops and is well suited to the geographical environment along the Light Rail alignment. Due to geographical constraints, most Light Rail platforms are 3 to 5 metres wide and about 40 metres long. To facilitate passenger flow, there are no entry / exit gates on the platform.

5. KCRC will continue to step up publicity on the open fare system. Operational and ticketing arrangements will be reviewed from time to time to explore possible improvements taking into account passenger feedback.

Monthly ticket scheme for short-haul journeys

6. KCRC will review the effectiveness of its promotional schemes from time to time so as to decide whether they should be continued. The corporation will also monitor developments in its operating environment and public views in considering whether to introduce any new promotional scheme.

Signalized pedestrian crossings across the LR tracks

7. Being one of the road users, KCRC maintains a close liaison with the relevant Government departments to ensure the safe operation of Light Rail. To enhance the safety awareness of pedestrians when crossing the Light Rail tracks, KCRC organises safety campaigns to educate pedestrians on the importance of road safety. Apart from promoting safety through posters and leaflets and organising talks at school and community centres, the corporation identifies “model passengers” every two months with an aim to encouraging pedestrians to observe the traffic lights when crossing Light Rail tracks.

Inviting Communications with Organisations for People with Disabilities (PwDs)
– Response from MTRCL

In 2001, MTRCL has taken the initiative in arranging communication meetings with PwDs organisations in every 6 months to gauge their view. Representative from Transport Department also attends the meeting as an observer. On inviting PwDs organisations to the communication meeting, MTRCL has all along kept dialogue with and make reference to advice from the Hong Kong Council of Social Service (HKCSS), an umbrella organization with over 320 Agency members and providing more than 90% of the social services for those in need through their 3,000 service units all over HK. At present, participating organizations include visually impaired groups, hearing impaired groups and mobility impaired groups. For any other PwDs organizations which would like to join the communication meeting, MTRCL will follow the practice mentioned-above to consider.

Besides, since 1993 MTRCL has been present in the quarterly meetings of the “Working Group on Access to Public Transport by PwDs” organised by Transport Department to communicate with PwDs organisations directly and listen their views.